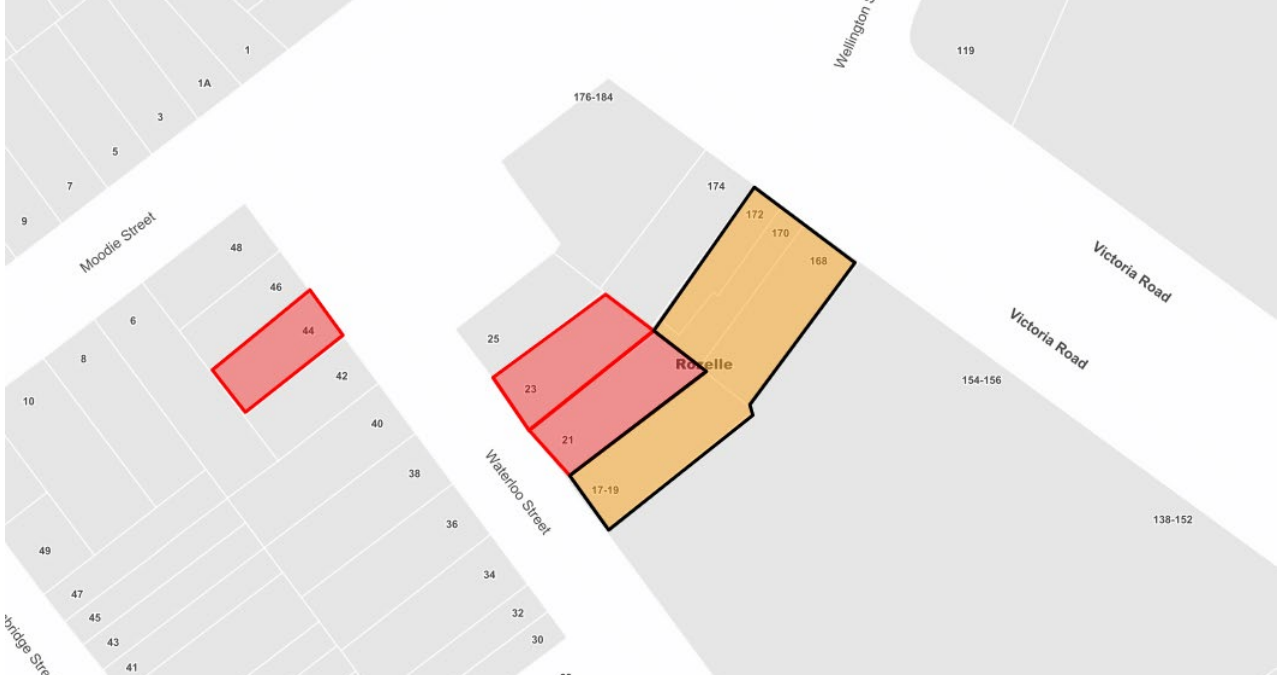





 DEVELOPMENT ASSESSMENT PANEL REPORT				
Application No.	DA/2024/0306			
Address	168-172 Victoria Road and 17-19 Waterloo Street, ROZELLE			
Proposal	Integrated development under the Road Acts 1993. Works include demolition of existing structures and construction of a four-storey mixed use building, including ground floor commercial space, residential accommodation above, and basement car parking, and associated works and construction of two dwelling houses with Torrens title subdivision and associated works			
Date of Lodgement	29 April 2024			
Applicant	The trustee for Rozelle Village Trust			
Owner	Rozelle Village Pty Ltd			
Number of Submissions	<u>Initial</u> : One (1) <u>First Renotification</u> : Three (3) <u>Second Renotification</u> : Three (3)			
Cost of works	\$7,455,504.00			
Reason for determination at Planning Panel	Residential Flat Building development			
Main Issues	Existing use rights, privacy, parking access; Floor Space Ratio variation			
Recommendation	Deferred Commencement Approval			
Attachment A	Recommended conditions of consent			
Attachment B	Plans of proposed development			
Attachment C	Section 4.6 Exception to Development Standards			
Attachment D	Architectural Excellence Design Review Panel Minutes			
				
LOCALITY MAP				
Subject Site		Objectors		 N
Notified Area		Supporters		
Note: Due to scale of map, not all objectors could be shown.				

1. Executive Summary

This report is an assessment of the application submitted to Council for Integrated Development under the Road Acts 1993 that involves demolition of existing structures and construction of a four-storey mixed use building, including ground floor commercial space, residential accommodation above, and basement car parking, and associated works and construction of two dwelling houses with Torrens title subdivision and associated works at 168-172 Victoria Road and 17-19 Waterloo Street, Rozelle.

A total of four (4) submissions were received in response to the initial notification. The application was renotified again due to amended plans being submitted and 3 submissions were received, 1 submission being a letter of support. Therefore, a total of seven (7) submissions were received during the notification periods, 1 being a letter of support.

It is noted that 168-172 Victoria Road, where the proposed mixed use residential flat building is proposed, is a deferred site under the *Inner West Local Environmental Plan 2022 (IWLEP 2022)* and the previous *Leichhardt Local Environmental Plan 2013 (LLEP 2000)*. Therefore, the controls that apply to 168-172 Victoria would be *LLEP 2000* and Leichhardt Development Control Plan 2000 (LDCP 2000). The site at 17-19 Waterloo Street, where Torrens subdivision and two dwellings are proposed, will be assessed under the *IWLEP 2022* and Leichhardt Development Control Plan 2013 (LDCP 2013).

The main issues that have arisen from the application include:

- Existing use rights;
- Visual and acoustic privacy;
- Impact to adjoining property in relation to access for maintenance; and
- Non-compliance with FSR development standard.

The non-compliances are considered to be acceptable subject to Deferred Commencement Consent conditions as recommended which include:

X. Council must be provided with amended plans demonstrating the following:

- a. The proposed Terrace Houses with frontage to Waterloo Street must be setback 500mm from the side boundary shared with 21 Waterloo Street.*
- b. The rear balconies of the proposed Terrace Houses are to be reduced to a maximum size of 2.4sqm (i.e. 2.6 m x 0.9m) and the associated blade walls to be deleted and replaced with privacy screens with a height of 1.6 metres measured from the finished floor levels of the rear balconies.*
- c. The proposed roof top terraces to the Terrace Houses are to be deleted and replaced by non-trafficable roofing.*
- d. The balconies of Units 1, 5 and 9 to be reduced to a maximum of 8sqm with dimensions 2m x 4m (depth x width) with fixed privacy screens on the northwestern side (i.e. west side as nominated on the architectural drawings) of the balconies and fixed privacy screens to return at least 2 metres on the southwestern side (i.e. south side as nominated on the architectural drawings) of the balconies. Changes to the glazing and internal configurations can be undertaken to accommodate this change.*
- e. The balustrades to the balconies of Units 1, 5 and 9 on the northwestern side (i.e. west side as nominated on the architectural drawings) to be of a solid/opaque material.*

- f. Unit 06 and Unit 08 to achieve 8m³ of storage area (with at least 50% of the required storage located within the apartment).
- g. The proposed torrens subdivision associated with 17-19 Waterloo Street to be removed and replaced by Strata subdivision.

Reason: To ensure that the design changes protect the amenity of the neighbourhood.

Also, given that the subject proposal relies on the adjoining Balmain Leagues Club site for access to parking and waste facilities within the development, the following specific condition will also be recommended:

- X. Noting that both the proposed parking and proposed waste facilities relies on an easement through the Balmain Leagues Club site for access (which is part of D/2018/219), prior to an Occupational Certificate to be issued, the Principal Certifying Authority is to be provided with evidence that the development at the Balmain Leagues Club site (i.e. D/2018/219) is constructed to the point where an principle certifier authority had issued at least a Part Occupational certificate for the Balmain League Club site to allow safe access for the parking and waste purposes of 168-172 Victoria Road and 17-19 Waterloo Street.

Reason: To ensure access for parking and waste purposes can be safely undertaken.

2. Proposal

This application originally sought approval for the following development:

- Demolition of all existing structures, tree removal and site preparation works;
- Construction of a mixed use development up to four storeys in height with roof top garden comprising fourteen (14) residential units consisting of:
 - 4 x 1 bedroom units;
 - 7 x 2 bedroom units;
 - 3 x 3 bedroom units;
- 88.78m² commercial floor space within 2 separate units;
- Basement parking and underground access to the development including:
 - Access (right of way) from the Tigers Leagues Club;
 - Fifteen (15) car parking spaces including two (2) accessible spaces, 1 commercial space 1 visitor space; and
 - 1 motorcycle space' and
- Ancillary works including landscaping, stormwater management and service.

The applicant provided an amended design on 24 October for assessment. The amended design, that this assessment report is based upon, includes the following works:

- Demolition of all existing structures, tree removal and site preparation works
- Construction of a mixed use development up to four storeys in height with roof top garden comprising:
 - Eleven (11) residential units consisting of:
 - 3 X 1 bedroom units, 7 x 2 bedroom units and 1 X 3 bedroom unit;
 - 1 X commercial unit (56.62m²);
- Construction of 2 dwelling houses with Torrens title subdivision;
- Basement parking and underground access to the development including:
 - Access from the Tigers Club (approved under D/2018/219);

- Sixteen (16) car parking spaces including two accessible spaces, one commercial space (also an accessible space) and one visitor space; and
- 1 X motorcycle parking space; and
- Ancillary works including landscaping, stormwater management and services to support the development.

3. Site Description

The subject site is located on the south-western (western) side of Victoria Road and on the north-eastern (eastern) side of Waterloo, between Darling Street and Moodie Street.

The subject site consists of 4 allotments and is generally L – Shaped with a total area of area of 877.06sqm. The subject Site is legally described as Lot 2 in DP 323480 (168 Victoria Road), Lot A and B in DP 436153 (170-172 Victoria Road) and SP 67362 (17-19 Waterloo Street).

An existing industrial building is located on the site at 168 Victoria Road, and a dual occupancy is located at 17-19 Waterloo Street and dwelling houses are located at 170 and 172 Victoria Road. Adjoining the property to the south is the Balmain Leagues Club which is currently subject to a SSSA that is under assessment by the Department of Planning NSW. Adjoining the site to the north are residential dwellings that rely on existing use rights as they are located in an E1 zoning (174 Victoria Road and 21 Waterloo Street) and a mix of single and two storey dwellings located in a R1 Zone to the west.

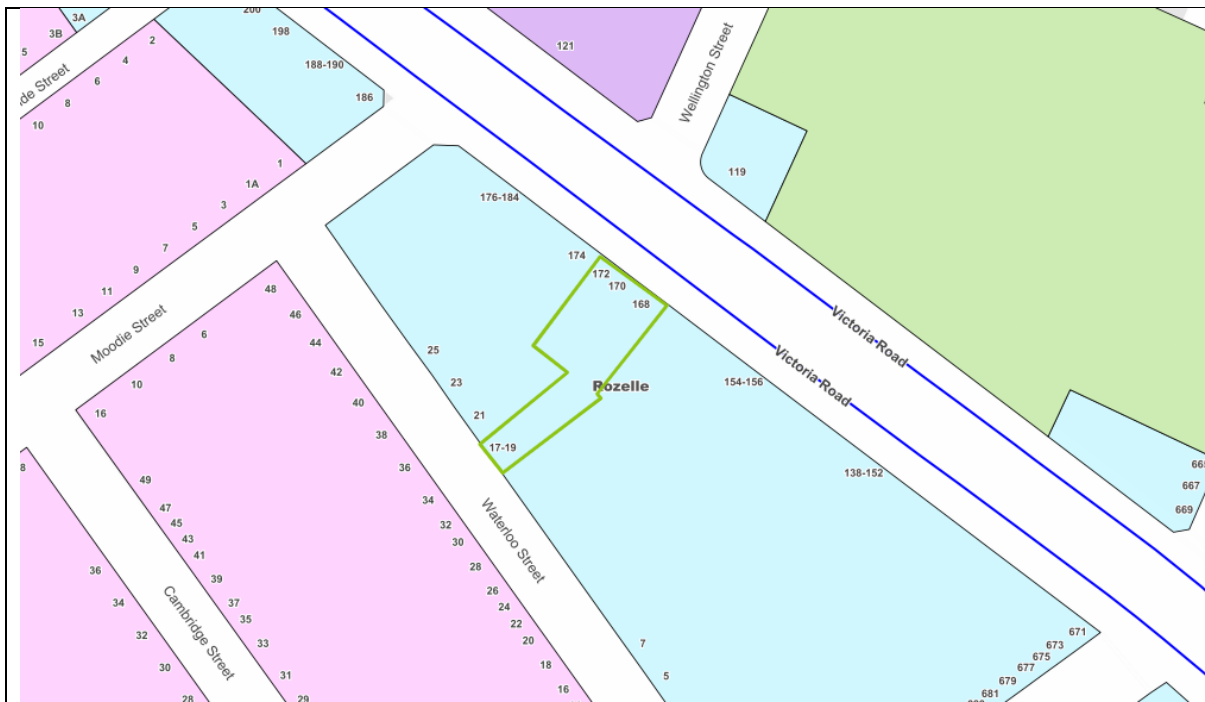
The following trees are located on the site and within the vicinity.

- Tree 1 - *Archontophoenix cunninghamiana* (Bangalow Palm) – 172 Victoria Road
- Tree 2 - *Flindersia australis* (Crow's Ash) – 17-19 Waterloo Street;
- Tree 3 - *Celtis sp.* (Hackberry) – 17-19 Waterloo Street;
- Tree 4 - *Celtis sp.* (Hackberry) – 17-19 Waterloo Street;
- Tree 5 - *Murraya paniculata* (Orange Jessamine) – 17-19 Waterloo Street; and
- Tree 6 - *Murraya paniculata* (Orange Jessamine) – 17-19 Waterloo Street.

It should be noted that the sites at 168, 170 and 172 Victoria Street are part of a deferred site, and therefore, are not zoned under *IWLEP 2022* or *LLEP 2013*, but it is zoned Business under *LLEP 2000*, and the site at 17-19 Waterloo Street is zoned E1 under the *IWLEP 2022* (see diagrams below).



Map: 1 17-19 Waterloo Street is zoned E1 under IWLEP 2022



Map 2: 168, 170 and 172 Victoria Street is zoned Business under LLEP 2000



Figure 1: View of proposed site from Victoria Road



Figure 2: View of proposed site from Victoria Road



Figure 3: View of proposed site from Waterloo Street

4. Background

Site History

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

17-19 Waterloo Street

Application	Proposal	Decision & Date
D/1999/320	Amended plans: demolition of existing dwelling, erection of two townhouses and strata subdivision.	Approved 08/02/2000
M/2001/49	Amended plans: demolition of existing dwelling, erection of two townhouses and strata subdivision.	Refused 15/05/2001
BC/2001/424	Works carried out not in accordance with approval plans D/1999/320 & CC/2000/119 Involving: additional window to rear elevation of ground floor; timber pergolas to first floor balcony; line of colour bond roof; masonry boundary fence; aluminium framed doors and windows instead of timber framed doors and windows.	Refused 28/10/2004
D/2004/279	Alterations and additions to existing dwelling, including enlargement of existing first floor terrace with canvas canopy over, and new front fence.	Approved 03/11/2004

172 Victoria Road

Application	Proposal	Decision & Date
D/2000/625	Alterations and additions to existing dwelling involving new attic bedroom	Approved 03/07/2001

Surrounding Properties

Balmain Leagues Club site – (138-152, 154-156 Victoria Road, ROZELLE NSW 2039, 697 Darling Street, ROZELLE NSW 2039, 1 Waterloo Street, Vacant Lots 3-7 Waterloo Street)

Application	Proposal	Decision & Date
SSD-68298726	Construction of a 16 storey mixed-use development with 227 dwellings (inclusive of 59 affordable housing dwellings), commercial and retail uses, a registered club, public open space and site preparation, earthworks and landscaping.	Currently under assessment by the Department of Planning NSW.
CDCP/2023/0348	Strata Subdivision	Completed 10/11/2023
MOD/2022/0447	Section 4.55(2) Modification of Development Consent D/2018/219 seeking modifications to approved mixed-use development. Changes include modifications to: the commercial club and retail podium; approved building envelopes and facade; public domain landscaped areas; residential unit design and mix resulting in a reduction of units; private and communal open space areas; basement and sub-structure; and incorporation of construction staging	Approved 04/08/2023
DA/2022/0942	Partial demolition of existing structures, conservation works to retained structures, and construction/fit-out of display suites associated with approved Balmain Leagues Club apartments at properties known as 697 & 1 Waterloo Street (formerly known as 699 Darling Street) Rozelle	Approved 13/03/2023
MOD/2020/0360	Modification to approval to delete duplicated landscape condition which was imposed in error	Approved 07/12/2020
D/2018/219	Demolish all existing improvements, carry out site remediation and construct a mixed-use development comprising three (3) basement levels for residential and commercial parking with three 11 to 12 storey buildings connected above a shared retail and commercial podium with 164 residential units above. The commercial area will include a new leagues club. Development fronting Waterloo Street will comprise two (2) to three (3) storey buildings for three (3) live/work units resulting in 167 residential units on the site.	Deferred Commencement - Regional Planning Panel 10/09/2020

21 Waterloo Street

Application	Proposal	Decision & Date
D/2016/25	Proposed demolition of some existing structures and the construction of a detached studio and deck, awning and retaining walls, new front fence plus associated works.	Approved 10/05/2016
M/2008/118	Section 96(1) Modification Application to BA98/547 which approved alterations and additions to provide a new first floor containing a bedroom and bathroom, first floor street front verandah and ground floor deck and carport to delete Condition 20.9 requiring soil testing for lead	Approved 17/06/2008
M/2007/294	Section 96 modification of development consent D/1998/264 which approved alterations and additions. Modification seeks to delete reference to carport from consent.	Approved 08/11/2007
D/2007/237	Semi inground pool construction	Approved 26/07/2007
M/1998/45	21 Waterloo Street ROZELLE	Approved 17/02/1999
DA/264/1998	First floor addition to residence	Approved 27/08/1998

Application History

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
16/08/2024	<p>A request for further information was sent to the applicant requiring the following;</p> <ul style="list-style-type: none"> • Issues raised by the Architectural Excellence Panel; • Issues in relation to design of car parking; • Additional information in relation to the potential amenity; impacts to 21 Waterloo Street; • Issues raised by the Private Trees section; • Issues in relation to Waste Management; and • Issues raised by Transport NSW.
24/10/2024	<p>The applicant provided an amended design that includes the following amendments:</p> <ul style="list-style-type: none"> • Demolition of all existing structures, tree removal and site preparation works; • Construction of a mixed use development up to four storeys in height with roof top garden comprising: <ul style="list-style-type: none"> ○ 11 residential units consisting of: <ul style="list-style-type: none"> ▪ Three x 1 bedroom units ▪ Seven x 2 bedroom; units ▪ One x 3 bedroom unit ○ One commercial unit (56.62m²); • Construction of two dwelling houses with Torrens title subdivision; • Basement parking and underground access to the development including;

	<ul style="list-style-type: none"> ○ Access from the Tigers Club (approved under D/2018/219); ○ 16 car parking spaces including two accessible spaces, one commercial space (also an accessible space) and one visitor space; and ○ One motorcycle parking space; and ● Ancillary works including landscaping, stormwater management and services to support the development. <p>The following additional information was also provided:</p> <ul style="list-style-type: none"> ● Geotechnical Letter; ● Electrolysis Report; ● Traffic report; ● Waste Management Plan; ● Landscaped Plan; and ● Structural drawings and letter.
29/10/2024	A revised acoustic report was provided by the applicant.
12/11/2024 10/12/2024	- The amended design was renotified.
28/11/2024	TfNSW has reviewed the submitted DA and notes that the development proposal involves excavation, construction, and operation of a mixed-use development that is in close proximity to the WestConnex (WCX) Rozelle Interchange Tunnel. The WCX team has advised that additional information needs to be provided to enable the proper assessment of the development's impacts on the surrounding TfNSW assets.
13/01/2025	<p>The following additional information was provided to address issues raised by TfNSW:</p> <ul style="list-style-type: none"> ● Acoustic Report ● Electrolysis Report ● Finite Element Analysis ● Surveyor Verified Reserves ● Structural drawings and letter. <p>While amended plans have also been provided, there are no changes proposed for the development, and hence, renotification was not required. The additional information is provided to show the location of the right of carriageway on both plan and sections as requested by TfNSW on DA111 & DA300. An additional section S-08 on DA301 to illustrate the sightline privacy to the neighbouring building from the proposed roof top terrace. (no changes to design, only providing a new section).</p>
31/01/2025	Concurrences and General Terms of Approval (GTA) from TfNSW were received.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EP & A Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The applicant has provided a Phase 1 preliminary site contamination investigation prepared by Getex Pty Limited and dated 04/09/23 that concluded a Phase 2 Detail Site investigation is required. The Phase 2 Detail Site investigation, prepared by Getex Pty Limited and dated 04/09/23 provides the following conclusions:

The following contaminants were identified to have concentrations exceeding the level set out in Schedule B1 of NEPM (2013):

- *Lead in soil;*
- *F2 (C10-C16 minus Naphthalene) in soil and groundwater;*
- *Carcinogenic PAHs in soil; and*
- *Total TRH in groundwater.*

Therefore, in light of the above, there is a duty to notify the EPA of soil and groundwater contamination.

Soil and groundwater contamination was identified within several locations of the Site. It is unknown the extent of the contamination. In addition, due to the access issues from existing buildings, the northwest, west and east areas of the site could not be assessed regarding soil and groundwater contamination. It is recommended that there is additional work to assess the extent of soil and groundwater contamination across the Site post demolition.

Due to the presence of groundwater contamination, it is also recommended that a vapour intrusion assessment is undertaken as the Site contains currently tenanted buildings. Hazardous building materials have not been identified within on-site structures. It is recommended that a hazardous building materials survey be undertaken prior to demolition of on-site structures.

In accordance with State Environmental Planning Policy (Resilience and Hazards) 2021 Section 4.6, it is the opinion of the consultant that consent to carry out the development can be granted as the land will be suitable for the proposed development as once the above data gaps are addressed and RAP is undertaken, and the contamination is remediated as stated above.”

A Remedial Action Plan prepared by Getex Pty Limited dated 10 April 2024, was submitted which addresses the remediation that is required:

This RAP was developed to provide a conceptual working plan detailing the extraction, validation and work health and safety and environment management strategies associated with the remediation of the impacted material at the Site.

Subject to the successful implementation of the measures detailed in this RAP, Getex considers the impacted material on the Site would be rendered suitable so that the Site is suitable for the proposed development which is presented within plans

“Development Application for Mixed Use Building’ by SRH Architecture dated 22nd February 2023 in APPENDIX II and is as follows:

- 1) Demolition of onsite structures; and*
- 2) Construction of a four (4) storey building with:*
 - A commercial space on the ground floor;*
 - Parking on the ground floor; and*
 - Residential apartments on the first to third floor.*

On the basis of this report, the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated. The contamination reports and Remediation Action Plan referenced above will be included in the conditions of consent.

The application involves does not involve Category 1 remediation under the SEPP.

SEPP (Housing) 2021

Chapter 4 Design of residential apartment development

Section 147 of the *Housing SEPP* requires the consent authority to consider any comments from the Council’s Architectural Excellence Design Review Panel (AEDRP), the design principles set out in Schedule 9 and the Apartment Design Guide (ADG).

A statement from a qualified Architect was submitted with the application verifying that they designed, or directed the design of, the development. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the ADG, how the objectives in Parts 3 and 4 of the guide have been achieved.

The original design was reviewed by Council’s AEDRP, and the key comments are summarised below:

Key comment in relation to Context and Neighbourhood Character:

“The Panel noted that the proposed through-site link connecting Waterloo Street with Victoria Road, serving future residents only, does not provide broader public benefit and is not essential to the proposal. Additionally, the Panel discussed the proposed built form presentation to Waterloo Street and suggests the proposal might be amended to provide two x three-storey terrace house types, creating a more appropriate built form character and transition between the former Leagues Club site and traditional residential buildings elsewhere along the streetscape. In this suggested configuration, the two terrace houses would present entries at the ground floor to Waterloo Street, while the primary apartment building would maintain its formal pedestrian address to Victoria Road.”

With regard to *Built Form and Scale*, the following comments were provided:

- *The Panel notes that the Waterloo Street portion of the basement appears constrained and recommends some reconfiguration to allow more direct, individual access from the two suggested terrace houses above through individual stairs or possibly individual residential lifts.*
- *The Panel recommends some internal replanning as suggested above and the incorporation of further design strategies (such as use of screening devices or other architectural treatments) to avoid or mitigate against cross viewing with the adjoining residential properties – 21 Waterloo Street, 23 Waterloo Street and 174 Victoria Road.*
- *The Panel recommends some reconfiguration within the Victoria Road building to introduce natural light and ventilation to common circulation corridors, ensuring consistency with the guidance offered at Objective 4F-1 with the ADG. Additionally, the width of the common circulation corridors within the eastern building might be increased to allow for greater comfort and intuitive movement for the residents.*
- *The Panel notes the proposed light-well along the north-western boundary may become problematic in a scenario where the adjoining property is redeveloped, as solar access provided to the proposal risks being negatively impacted in the future.*

In relation to *Density*, the following comments were provided:

The Panel offers in-principle support to the proposed density, subject to issues identified and recommendations offered in this report being positively incorporated within an amended proposal.

Planner’s comment: The design has been amended to address the comments made by the AEDRP, the major change being the change from a mixed use development (commercial and residential flat building) fronting Waterloo to two attached dwellings fronting Waterloo Street. The amended design has been reviewed by Council’s AEDRP and the following comments were provided:

The Panel thanks the applicant for positively and thoughtfully addressing the previous recommendations, including:

- *An overall reconsideration of the built form presentation to Waterloo Street by creating 2 x 3 storey terrace house type dwellings. This is considered an appropriate built form outcome that offers transition between the Leagues Club site and the traditional residential buildings elsewhere along the streetscape.*
- *Reconfiguration of the basement to allow more direct, individual access to the two suggested terrace houses above through individual stairs and lifts.*

- *Consideration of internal replanning in some instances, to avoid reliance on screening devices.*
- *Reconfiguration within the Victoria Road building to introduce natural light and ventilation to common circulation corridors, ensuring consistency with the guidance offered at Objective 4F-1 of the ADG. Additionally, the width of the common circulation corridors within the eastern building has been increased to allow for greater comfort and intuitive movement for the residents.*
- *Introduction of ceiling fans to all habitable areas, and addition of a rooftop photovoltaic system.*

The recommendations below are offered by the Panel as part of this review:

- *The terrace expression addressing Waterloo Street is supported by the Panel. Further articulation of the vertical recessed slot between the terraces is recommended. The Panel recommends that the vertical slot should carry through the built form, including the roof profile.*
- *In the Panel's view, the car manoeuvring would be challenging within the basement, and it should be reviewed in detail by Council's traffic/engineering experts, and possibly consider a turntable.*
- *The Panel also encourages incorporation of solid or translucent treatment within balconies (facing Waterloo Street), to create a desirable balance between outlook and privacy within the balconies. Additionally, the Panel restates that the applicant should investigate and incorporate suitable design measures for noise attenuation along the Victoria Road frontage seeking to strike an appropriate balance for outlook, solar access and natural ventilation against the noise and pollution aspects of the site.*
- *Ease of maintenance of the proposed planter boxes should be integrated into the design, and on roof terraces their design must ensure any privacy issues will be addressed for the adjacent property.*

The Panel restates that revised architectural drawings should confirm that internal and external apartment storage volumes are consistent with the guidance offered within Part 4G of the ADG.

While refinement of the pedestrian entry wall from Victoria Road is noted, details regarding artwork should be confirmed to Council's satisfaction. The Panel encourages the applicant to consider the introduction of some textural elements and an additional gate at the front boundary alignment to avoid the accumulation of windswept rubbish and potential CPTED (Crime Prevention through Environmental Design) issues.

Planner's comment: Generally, the ADERP is satisfied with the proposed design. As discussed in later sections of this report, conditions will be recommended to address visual privacy issues which will include the reduction of size to the rear balconies of the proposed terrace houses, deletion of the roof top terraces to the terrace houses as well as reducing the size and introducing solid balustrades to the balcony associated with Units 1, 5 and 9.

Issues in relation to storage area is discussed in more detail in a later section of the report and Council Engineers have reviewed the amended car parking arrangement and considers it satisfactory subject to standard conditions. Deferred Commencement conditions will be recommended regarding amendments to the vertical recessed slot between the terraces and details of the artwork.

In accordance with Section 149 of the *Housing SEPP* certain provisions for residential apartment development contained within the LDCP 2013 have no effect if the ADG also specifies provisions to the same matter.

The following provides further discussion of the relevant issues:

Overshadowing of neighbouring properties is minimised during mid winter

Objective 3B-2 of the ADG outlines the solar access requirements with regard to impact to neighbouring properties:

- Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%

In this regard, the only property that will be impacted in relation to solar access is 21 Waterloo Street, and the existing circumstance is that it does not receive the required amount of solar access, i.e. solar access to at least 50% of its private open space for at least 2.5 hours during winter solstice.

The applicant has provided amended shadow diagrams which demonstrates that the rear glazing associated with the living area of 21 Waterloo Street will receive solar access between 11am and 1pm and therefore will achieve compliance with the prescribed solar access controls.

The adjoining property has a private open space of approximately 65 sqm in area. The shadow diagrams illustrate the following information with respect to the reduction in solar access:

Time	Reduction in solar access	Reduction as % of open space
9am	4.7 sqm	7.2%
10am	4.9 sqm	7.5%
11 am	2 sqm	3.1%
12 noon	0 sqm	0%
1pm	0 sqm	0%
2pm	0 sqm	0%
3pm	0 sqm	0%

As per the above table, the overshadowing will occur between 9am and 11am in mid-winter, but there is no reduction of solar access between 12noon and 3pm. It is also noted that due to the east-west orientation of the site at 21 Waterloo Street, the time period that its private open space will receive solar access will be between 12pm and 2pm in mid-winter where the private open space is anticipated to received approximately 17 sqm to 20 sqm of solar access during this time and there are no additional impacts during this time period. It is also acknowledged that the private open space of No. 21 Waterloo Street is also self-shadowed by its own outbuilding structure, and the east-west orientation makes the impacted site difficult to retain the required amount of solar access.

In relation to impacts to No. 23 Waterloo Street, due to the location and orientation of the sites, there are no impacts to No. 23 Waterloo Street between 10am and 3pm during winter solstice. While there are some impacts at 9am, the shadows cast will mostly be within the existing shadows from the existing rear fence of No. 23 Waterloo Street.

In light of the above, the proposed development is considered to be acceptable with respect to solar access impacts.

Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- Communal open space has a minimum area equal to 25% of the site.
- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9.00am and 3.00pm on 21 June (mid-winter).

Comment: The proposal provides approximately 230 sqm of communal open space which is approximately 26.8% of the total area and therefore complies with the minimum size requirements. The communal space will not receive the required solar access, however, this is considered to be acceptable given the irregular shape of the proposed site which is prone to overshadowing, and at least 22sqm of solar access will be retained to the communal space between 1pm and 3pm during winter solstice.

Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Deep Soil Zone (% of site area)
Less than 650sqm	7% (40sqm)

Comment: 40.8 sqm of deep soil zone is proposed and complies with this requirement.

Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Room Types	Minimum Separation
<i>Up to 12 metres (4 storeys)</i>	
Habitable rooms and balconies	6m
Non-habitable rooms	3m

Comment:

The rear balconies associated with Units 2, 6 and 10 are setback 6 metres to the rear boundary, and therefore, satisfies the 6 metre requirement. However, the rear balconies to the Units 1, 5 and 9 are located only 2.6 metres away from rear boundary shared with 21 Waterloo Street and the Living room windows are located only 4.7 metres from the rear boundary shared with 21 Waterloo Street. Therefore, the Units 1, 5 and 9 do not satisfy the 6 metre requirement.

While it is noted that the proposal includes privacy screens which screen the north-western side of the balconies and partially screens the south-western side of the balconies. However, given the size of the proposed balconies which are at 15 sqm, there will be sightlines into the property at 21 Waterloo Street. Noting that Units 1, 5 and 9 are single bedroom units and the required balcony sizes are therefore only 8sqm, a Deferred Commencement condition is included in the recommendation requiring that the balconies of Units 1, 5 and 9 be reduced to a maximum of 8sqm with dimensions 2m x 4m (depth x width) with fixed privacy screens on

the northwestern side (i.e. west side as nominated on the architectural drawings) of the balconies and fixed privacy screens to return at least 2 metres on the southwestern side of the balconies (i.e. south side as nominated on the architectural drawings). The amount of glazing can be reduced and internal reconfiguration to be carried to achieve compliance with this condition.

Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment: 8 of the 11 Units within the proposed Shop Top housing building will receive solar access for at least two hours (73%) in mid-winter, and thus complies. While 3 of the 11 units will not receive direct solar access (27%), it is noted that the proposed terrace houses fronting Waterloo Street will receive the required solar access, and therefore, on balance, it is considered that the proposed development is acceptable in this regard.

Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: 81% (9 units) of the units will be cross ventilated (minimum 60% required), and therefore, the proposal complies.

Ceiling Heights

The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7m
Non-Habitable	2.4m

Comment: The proposed development achieves the minimum ceiling heights.

Apartment Size and Layout

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
1 bedroom	50sqm
2 Bedroom	70sqm

3 Bedroom	90sqm
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Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.

In addition to the above, the ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining, and kitchen are combined) the maximum habitable room depth is 8 metres from a window.
- Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of 4 metres for 2 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: All bedrooms have a minimum dimension of 3 metres, all master bedrooms exceed 10sqm, and all bedrooms exceed 9sqm in size. All living room have a width of at least 4 metres.

The proposed 1 bedroom units have a minimum size of at least 59 sqm, the proposed 2 bedroom units have a minimum of at least 76 sqm, and the proposed 3 bedroom unit is 111 sqm in area, and therefore, the proposed development complies with the requirements under this part.

Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4sqm	-
1 bedroom apartments	8sqm	2m
2 Bedroom apartments	10sqm	2m
3+ Bedroom apartments	12sqm	2.4m

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metre.

Comment: The proposed 1 bedroom units contain balconies that have a minimum depth of 2 m and are at least 15 sqm in size. The proposed 2 bedroom units contain balconies that have a minimum depth of 2m and are at least 11 sqm in size. The proposed 3 bedroom unit contains a balcony that has a width of at least 2.4m in depth and that is 41.5 sqm in size. Therefore, the proposed balconies associated with the proposed apartment building will meet the requirements of this part.

However, it is noted that, as discussed in an earlier section of the report, the balconies with the 1 bedroom units (i.e. Units 1, 5 and 9) are not setback in accordance with the requirements of the ADG, and have privacy impacts and in order to address privacy issues, the balconies

associated with the proposed one bedroom units will be reduced in size to be no larger than the minimum requirements of 8sqm (2m x 4m).

Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m ³
1 Bedroom apartments	6m ³
2 Bedroom apartments	8m ³
3+ Bedroom apartments	10m ³

Note: At least 50% of the required storage areas is to be located within the apartment.

The amount of proposed storage areas are as follows (calculations provided by the applicant):

<u>STORAGE</u>	
UNIT NUMBER	VOLUME (m3)
TH 1	49.56
TH 2	32.77
UNIT 01	7.14
UNIT 02	14.60
UNIT 03	15.82
UNIT 04	16.79
UNIT 05	19.29
UNIT 06	2.46
UNIT 07	12.97
UNIT 08	4.64
UNIT 09	22.89
UNIT 10	12.97
UNIT 11	33.77

Comment: As indicated on the table, Units 06 and 08 do not achieve the minimum requirement. As both Unit 06 and Unit 08 are 2 bedroom apartments the non-compliance is significant and is not supported. A Deferred Commencement condition is included in the recommendation requiring that the design to be amended to ensure Unit 06 and Unit 08 to achieve 8m³ of storage area (with at least 50% of the required storage located within the apartment).

SEPP (Sustainable Buildings) 2022

Chapter 2 Standards for residential development - BASIX

The application is accompanied by a BASIX Certificate (lodged within 3 months of the date of the lodgment of this application) and an amended BASIX Certificate lodged consistent with the amended plans in compliance with the *EPA Regulation 2021*.

SEPP (Transport and Infrastructure) 2021

Chapter 2 Infrastructure - Development likely to affect an electricity transmission or distribution network

The proposed development meets the criteria for referral to the electricity supply authority within Section 2.48 of the *Transport and Infrastructure SEPP* and has been referred for comment for 21 days.

Ausgrid consents to the development subject to conditions which will be included as conditions of consent (as per Attachment F).

Overall, subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice the proposal satisfies the relevant controls and objectives.

Chapter 2 Infrastructure - Development in, above, below or adjacent to rail corridors and interim rail corridors

Concurrence is required under the rail related provisions of the Transport and Infrastructure SEPP (clause 2.101). The application was referred to Transport for NSW which provided the following comments:

The site is located within the future CBD Metro corridor identified under the ISEPP. Pursuant to the provisions of Clause 2.101 of the T&ISEPP, TfNSW is required to take into consideration the likely effect of the proposed development on:

- (a) The practicability and cost of carrying out rail expansion projects on the land in the future, and*
- (b) Without limiting paragraph (a), the structural integrity or safety of, or ability to operate, such a project, and*
- (c) Without limiting paragraph (a), the land acquisition costs and the costs of construction, operation of such a project.*

The documents have been prepared based on the available ground conditions and assumptions. If the ground conditions are different from these assumptions from the results of the site-specific site investigation following the demolition of the existing buildings. The applicant is required to submit the revised design and impact assessment using the latest information.

In this regard, TfNSW has taken the above matters into consideration and has decided to grant concurrence to the development proposed in development application DA/2024/0306, subject to Council imposing the conditions listed in TAB A. Should Council choose not to impose the conditions provided in TAB A (as written), then concurrence from TfNSW has not been granted to the proposed development.

The conditions required by TfNSW are included in the recommendation of this report.

Development with frontage to classified road

The application was referred to Transport for NSW (TfNSW) for concurrence in accordance with Section 138 of the Roads Act 1993. TfNSW has reviewed the submitted information and would provide concurrence to the civil works on Victoria Road under Section 138 of the Roads Act 1993, subject to Council's approval and the TfNSW requirements being included in any consent issued by Council (refer to Attachment A). These requirements have been included as recommended conditions of consent.

Impact of road noise or vibration on non-road development

Clause 2.120 (3) prescribes that;

If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application was supported by an acoustic report prepared by Vipac Engineers and Scientists Limited and dated 9 January 2025 which considered the noise and vibration impacts from Victoria Road as well as potential noise and vibration impacts from the future metro which may run beneath the site. The conclusion of the report is as follows:

“The acoustic assessment conducted for the proposed mixed-use development at 168-172 Victoria Road and 17-19 Waterloo Street, Rozelle demonstrates that the site can comply with all relevant noise and vibration criteria when the recommendations provided in this report are implemented. Building construction requirements have been assessed when considering noise from Victoria Road. The potential impact of both construction and operational phases of the Sydney Metro have also been considered, using data provided from the Metro EIS.”

This acoustic report has been referenced in the recommended conditions of consent.

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of C1.14 Tree Management of the LDCP 2013.

The application seeks the removal of 6 trees within the subject site:

- Tree 1 - *Archontophoenix cunninghamiana* (Bangalow Palm)
- Tree 2 - *Flindersia australis* (Crow's Ash)
- Tree 3, 4 - *Celtis sp.* (Hackberry); and
- Tree 5,6 - *Murraya paniculata* (Orange Jessamine)

An assessment of the proposal against the abovementioned provisions has identified the following:

- There are six trees of varying significance located across two of the three sites identified for redevelopment with the majority of trees located within the rear of 17-19 Waterloo Street.
- The site falls within the C2.2.5.5 (b) Victoria Road Sub Area as defined in the LDCP 2013. The controls for the Desired Future Character require that buildings are built to cover the full width of the amalgamated lots. As per the controls of the DCP the proposed built form including basement spans the full lot width which in turn will require the removal of all six specimens upon the site. It would be very difficult to make recommendations to retain any of these specimens upon the site as the proposed development would affect both the above and below ground parts of the trees, leaving

them unviable for retention. Therefore, the removal of the six trees affected by the proposal is supported subject to replacement tree planting.

- The proposal provides limited opportunity for replacement planting by providing limited pockets of deep soil areas and podium planters above the basement slab on the ground floor. Small trees are proposed on podiums and medium trees and palms are proposed in the limited areas of deep soil. The updated Landscape Plans prepared by TWLA dated 22/10/24 (Rev F) are supported.

Overall, the proposal is considered acceptable with regard to the *Biodiversity and Conservation SEPP* and C1.14 Tree Management of the LDCP 2013 subject to the imposition of conditions, which have been included in the recommendation of this report.

Leichhardt Local Environmental Plan 2000 (LLEP 2000)

The site is a deferred site under the *IWLEP 2022*. The provisions of the *LLEP 2000* apply.

The land is zoned **Business** and is the subject of site specific controls under the *LLEP 2000*. The proposed uses on the site, being residential, retail and commercial are all permissible uses in the zone.

The following table presents an assessment of the proposed development against the relevant development standards set out in clause 19 of Part 4 *Housing*; and clauses 4 (a) to (h) of Part 3 of Schedule 1 of *LLEP 2000*.

LEP 2000	Development Control	Proposed	Compliance
Part 4 - Housing			
Clause 19(6) <i>Diverse Housing</i>	<u>Minimum</u> 25% bedsit or 1 bedroom <u>Maximum</u> 30% 3 or more dwellings	1 Bed – 3 (27%) 2 Bed – 7 (63%) 3 Bed – 1 (9%)	Yes
Clause 19(7) <i>Adaptable Housing</i>	10–15 units: 1 unit must be adaptable unit	1 dwelling	Yes
Part 5 – Employment			
Clause 23(1)(b)	FSR: 1.5:1 for mixed use	FSR: 2.3:1 (53% variation)	No

Clause 23

23 *General provisions for the development of land*

(1) *Commercial floor space control*

- (a) *Consent must not be granted to the carrying out of non-residential development on land within any zone if it will result in the floor space ratio of a building on the land exceeding 1:1.*
- (b) *Consent may be granted to the carrying out of mixed residential and other development on land within the Business Zone which results in a floor space ratio of a building on the land up to 1.5:1, but only if all floor space at the ground*

floor or street level is used for non-residential purposes (except for any floor space used for service and access purposes required for the residential component of the building in the floors above).

- (c) *Residential development on land within the Business Zone is only allowed in accordance with paragraph (b).*

For the building that fronts Waterloo Street, the proposed is a mixed-use development where the ground floor consists of a commercial component and services for the residential development on the floors above. Therefore, a Floor Space Ratio of 1.5:1 applies to this site.

The proposed development will have a FSR of approximately 2.3:1, and therefore, does not comply with the 1.5:1 development standard.

Clause 40 of the *LLEP 2000* allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Clause 40(3) of the *LLEP 2000* justifying the proposed contravention to the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the fourth method described in *Initial Action* at [17] is used, and the applicant has provided the following:

Wehbe Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own decisions.

This is a relevant consideration noting the approved development of the Club, adjacent to the Site, which was subject to an FSR variation request under LLEP 2000.

The Club has a maximum FSR of 1.9:1 but has been approved with a residential FSR of 2.54:1 and a current modification including FSR variation request currently under assessment by the Department of Planning, Housing and Infrastructure. This proposed variation seeks to increase the FSR to 3.7:1 for residential accommodation with an overall FSR of 5.03:1 (Club, commercial and residential uses). This demonstrates the FSR adjacent to the Site has virtually been abandoned and should be a consideration in assessing this request to achieve a transition between the Club development and adjoining developments to the Site.

Comment:

168-172 Victoria Road (and the adjacent Balmain League Club site) is one of the 3 remaining deferred sites that is assessed under *LLEP 2000* (the other site being the Callan Park site which has a public purpose zoning with no relevant FSR development standards).

While the State Significant Development Application is currently under assessment for the adjacent Balmain League Club site, D/2018/219 approved three 12 storey residential towers and construction works have already commenced and therefore there will a minimum of 12 storeys and a FSR of 3.9:1 located on the adjacent Balmain Leagues Club site.). It is acknowledged that the approved development significantly exceeds the prescribed FSR controls, however this is the only remaining site without a development approval utilising these

controls and it is accepted that whilst a large variation has been approved at the neighbouring site, the proposed development must consider the remaining adjoining context and the transition in scale required and an excessive variation would result in a poor streetscape outcome with potential for amenity impacts. Whilst Council does not agree with the applicant's justification in this regard, the variation is supported for other reasons outline below.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the Floor Space Ratio development standard:

Environmental Planning Ground 1 - *The EPI applying to the Site, being LLEP 2000, has a more restrictive definition of GFA in comparison to the definition applied under IWLEP which applies to the rest of the LGA (excluding the Club). This results in a larger FSR exceedance that would have otherwise been achieved over the Site and what could be achieved on neighbouring properties zoned under IWLEP as detailed below:*

- *Maximum FSR achieved under IWLEP 2022 = 1.89:1*
- *Maximum FSR achieved under LLEP 2000 = 2.26:1.*

This environmental planning ground is accepted because there is a difference with respect to the definition of Gross Floor Area between Leichhardt LEP 2000 and Inner West LEP 2022 and the non-compliance would be less significant if the gross floor area were calculated in accordance with the *IWLEP 2022* definition.

Environmental Planning Ground 2 - *The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area, solar access, cross ventilation and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site.*

This environmental planning ground is accepted. The proposal has been reviewed by Council's Architectural Excellence and Design Review Panel who consider the proposed design to be a satisfactory response to the Victoria Road streetscape and the proposed dwellings will provide acceptable amenity and generally comply with the other planning controls applicable.

Environmental Planning Ground 3 - *The proposed development being four storeys in height along Victoria Road is significantly lower in building height than the future adjoining Club to the north. As previously mentioned, the proposal acts as a transition between the approved 12 storey (proposed 16 storey) development and other lower density developments to the north west. This environmental planning ground is accepted because the Architectural Excellence and Design Review Panel considers the proposed design to be a satisfactory response to the Victoria Road streetscape.*

Environmental Planning Ground 4 - *The proposed development being four storeys in height along Victoria Road is significantly lower in building height than the future adjoining Club to the north. As previously mentioned, the proposal acts as a transition between the approved 12 storey (proposed 16 storey) development and other lower density developments to the northwest. This environmental planning ground is accepted because the Architectural Excellence and Design Review Panel considers the proposed design to be a satisfactory transition of built forms in response to the Victoria Road streetscape.*

Environmental Planning Ground 5 - *This variation to the maximum FSR development standard is unlike a variation to a height control for example, where there is a specific area of*

encroachment. In this regard, there is not necessarily one specific area(s) responsible for the FSR variation. However, the overall visual impact of the building mass based on the FSR variation is considered minor with the building design incorporating a number of design elements to reduce the overall mass in particular including elements of articulation along the street frontage, awnings and balconies recessed into the facade. The building mass as proposed also provides an appropriate transition within the desired future character for the area going between the adjoining Club development (currently proposed with an overall FSR of 5.03:1) to adjoining developments having an FSR of up to 1.5:1. This environmental planning ground is accepted as the proposed design will provide a satisfactory transition of built forms in response to the Victoria Road streetscape.

Cumulatively, and while not all the grounds have been adequately made out, the grounds are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Clause 19(6) Diverse Housing

The following controls are applicable in relation to the provision of diverse housing:

Diverse housing Consent must not be granted for development that will provide 4 or more dwellings, unless it provides a mix of dwelling types in accordance with the following Table, to the nearest whole number of dwellings—

- *Bedsitter or one bedroom dwelling: Minimum 25%*
- *Three or more bedroom dwelling: Maximum 30% Extent of the variation*

The breakdown of the proposed dwelling mix with the residential flat building are as follows:

- 27% are 1-bedroom units - 3 x 1-bedroom units (3/11) where a minimum of 25% are required and
- 9% are 3-bedroom units – 1 x 3 bedroom unit (1/11), where a maximum of 30% are required.

Therefore, the proposal complies with relevant controls above.

Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	The proposal, subject to conditions, satisfies the section as follows: <ul style="list-style-type: none"> • The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, • The proposal prevents adverse social, economic and environmental impacts on the local character of Inner West, 	Yes, subject to conditions

Section	Proposed	Compliance
	<ul style="list-style-type: none"> The proposal prevents adverse social, economic and environmental impacts, including cumulative impacts 	

Part 2 – Permitted or Prohibited Development

Section	Proposed	Compliance
Section 2.3 Zone Objectives and Land Use Table	See discuss below	Yes, subject to conditions
Section 2.6 Subdivision – Consent Requirements	See Discuss below	Yes, subject to conditions
Section 2.7 Demolition Requires Development Consent	The proposal satisfies the section as follows: <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Clause 2.3 - Land Use Table and Zone Objectives and 2.6 Subdivision – consent requirements

The site is zoned E1 under the *IWLEP 2022*. The *IWLEP 2022* defines the development as:

dwelling house means a building containing only one dwelling

A dwelling house is a type of *residential accommodation*, which is prohibited development within the land use table.

Because the proposed development is ordinarily prohibited in the E1 Zone, the Applicant relies upon the existing use right provisions under Division 4.11 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) and Part 5 of the *Environmental Planning and Assessment Regulation 2000* for approval.

The applicant provided the following information in relation to existing use rights:

‘Existing use’ under the Environmental Planning and Assessment Act 1979 (EP&A Act) is defined as:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land—*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Prior to the Site being rezoned under IWLEP 2022 on 16 August 2024, the Site was zoned B2 Local Centre under Leichhardt Local Environmental Plan 2013. The Site contains two dwellings houses which were permissible with consent under LLEP 2013. IWLEP 2022 had the effect of prohibiting a dwelling house when it commenced and therefore the applicant is relying on existing use rights.

Under s4.66, unless expressly provided in the Act, nothing prevents the continuance of an existing use. The dwellings are currently rented and the use of these dwellings houses has not ceased for a continuous period of 12 months. In particular we note that there has only been 2 months since the use became prohibited under IWLEP 2022 and therefore the use could not be considered abandoned.

This DA seeks to rebuild and expand the existing use (i.e. dwelling house). Under c164 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regs) development consent is required for any enlargement, expansion and intensification of existing uses. Further, c166 requires development consent for any rebuilding of a building or work used for an existing use. In accordance with c164 and c166, we confirm:

- The enlargement, expansion or intensification is for the existing use only (i.e. dwelling house) and it will be carried out only on the land to which the existing use relates. (clause 164)*
- The rebuilding of the existing use of the building will be for the same purpose (i.e. dwelling house) and carried out on the same land on which the building or work was erected immediately before the use became prohibited in August 2024. The development is still contained within the existing lot 17-19 Waterloo Street, Rozelle (clause 166).*

It is noted that, with respect to planning principles related to existing use rights, the relevant caselaw includes *Stromness Pty Ltd v Woollahra Municipal Council* [2006] NSWLEC 587 and *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71.

In *Stromness Pty Ltd v Woollahra Municipal Council* [2006] NSWLEC 587, the proposal was to demolish an existing residential flat building and erect a block of four units on the site. The property had existing use rights for a residential flat building, a use otherwise prohibited under the zoning. The issues argued included the consideration of merits where existing use rights apply and the planning principles in *Fodor* and the appeal was upheld.

A review of council records indicates that the current dwellings at 17-19 Waterloo Street were approved under D/1999/320 which approved demolition of existing dwelling, erection of two townhouses and strata subdivision in 08/02/2000 which was prior to the current planning controls which prohibits a dual occupancy use in its current zoning, and there is no evidence that the subject site has been used for other purposes after its construction and use as a dual occupancy. The definition of this under IWLEP 2022 is as follows;

dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Having regard to the caselaw, existing use rights can be applied to a new building as long as the proposed use remains the same and can potentially be intensified under Clause 164 and the building and scale to be considered under the principles in *Fodor* (discussed in further detail below).

Whilst the proposal will retain two residential dwellings which will be consistent with the existing uses currently on the subject site at 17-19 Waterloo Street, the applicant has proposed

the provision of 2 dwelling houses with Torrens subdivision which is different to that previously approved which saw a dual occupancy with strata subdivision. As such, council considers the existing use only applying to a dual occupancy and endorses the proposal on this basis.

A condition is included in the recommendation requiring the deletion of reference to Torrens subdivision and that the proposed dwellings are to be constructed and fit for occupation before the issue of any strata subdivision Certificate.

With respect to the proposed replacement building, the Land and Environment Court has at paragraph 17 in Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71 set out the following four planning principles for the assessment of proposals on land with existing use rights:

How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

Comment: The subject site adjoins 21 Waterloo Street to the north which is a two storey dwelling within an E1 that similarly relies on existing use rights. The subject site adjoins the Balmain Leagues Club to the south which allows developments up to three storey high fronting Waterloo Street. The proposed 2 storey built form has been reviewed by the Architectural Excellence Design and Review panel which considers the form and bulk acceptable with regard to its compatibility with the Waterloo Street streetscape. While numerical controls for floor space ratio do not apply to sites with existing use rights the proposed variance to the control, as detailed below in this report, is deemed acceptable, as the proposal is generally consistent with neighbouring dwellings, the proposal (by way of condition) does not result in any undue privacy or solar access impacts, and the overall bulk and scale of the proposal is consistent with surrounding sites.

What is the relevance of the building in which the existing [use] takes place?

Comment: It is noted that where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision. In this regard, the proposed built form has been reviewed by the Architectural Excellence Design and Review panel which considers the form and bulk acceptable with regard to its compatibility with the streetscape.

What are the impacts on adjoining land?

Comment: While there are no adverse solar access impacts from the proposed dwellings at 17-19 Waterloo Street, the proposed dwellings include an excessive amount of private open spaces first floor and above which includes a roof-terrace on each lot as well as 4 balconies on each lot (i.e. total of 10 balconies/roof top terraces) all exceeding the balcony size requirements under C3.11 – Visual Privacy of Leichhardt DCP 2013. As the roof top terraces and the rear balconies will have sightlines into adjoining properties and the roof top terraces will also have potential acoustic privacy impacts, the rear balconies are to be reduced to a maximum size of 2.4sqm (i.e. 2.6 m x 0.9m) and the roof top terraces to be deleted. This will be addressed by a Deferred Commencement condition.

What is the internal amenity?

Comment: The proposed dwellings will receive adequate internal amenity with the principle private open space located on the ground floor and the living rooms receive adequate solar access.

As per the information provided by the applicant, subject to the conditions to ensure the proposed dwellings are built prior to the issue of any subdivision certificates, and conditions to address privacy impacts to adjoining lands, it is considered that existing use of the site as a dual occupancy has been adequately demonstrated as per the requirements under Division 4.11 of the EP&A Act 1979.

Concluding Remarks

The proposal has been assessed against the four (4) planning principles established by the NSW Land and Environment Court in relation to existing use rights. Subject to the imposition of conditions, the proposal is not considered to result in undue or adverse impacts to adjoining properties or the streetscape.

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 of the *Environmental Planning & Assessments Act 1979*.

Part 4 – Principal Development Standards

There are no development standards that apply to dual occupancy development under IWLEP 2022 as it is a prohibited form of development. Notwithstanding, as a guide, as the subject site is located within an E1 zoning, the FSR controls allowable for E1 zoning is 1:1.

17 Waterloo Street

Section	Proposed		Compliance
Section 4.4 Floor Space Ratio	Maximum	1:1 or 154.2 sqm	No
	Proposed	1.09:1 or 168sqm	
	Variation	13.8 sqm or 9%	
Section 4.5 Calculation of floor space ratio and site area	The Site Area and Floor Space Ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to Development Standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4.		See discussion below

19 Waterloo Street

Section	Proposed		Compliance
Section 4.4 Floor Space Ratio	Maximum	1:1 or 147.1 sqm	No
	Proposed	1.14:1 or 168sqm	
	Variation	20.9 sqm or 14.2%	
Section 4.5 Calculation of Floor Space Ratio and Site Area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to Development Standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4.		See discussion below

Combining 17 and 19 Waterloo Street

Section	Proposed		Compliance
Section 4.4 Floor space ratio	Maximum	1:1 or 301.2 sqm	No
	Proposed	1.15:1 or 348 sqm	
	Variation	46.8 sqm or 15.5%	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4.		See discussion below

Section 4.6 – Exceptions to Development Standards

Section 4.4 - Floor Space Ratio Development Standard

The applicant seeks a variation to the above mentioned under section 4.6 of the *IWLEP 2022*. The amended proposal includes Torrens title subdivision that will result in a variation of 9% (13.8sqm) to 17 Waterloo Street and a variation of 14.2% (20.9 sqm) to 19 Waterloo Street.

When considering the site as a combined lot, based n Council’s assessment of existing use rights as a ducal occupancy, the breach for the development is 15.5% (46.8sqm)

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant’s written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4** is *to establish a maximum floor space ratio to enable appropriate development density*. The written request states:

“The proposed development is compatible with the anticipated future development densities within the surrounding area under IW LEP.

Under clause 4.4A of IW LEP 2022, developments are capable of achieving a maximum FSR of 1.5:1 by incorporating a commercial use along the ground level. Therefore, while the proposed dwellings on 17 and 19 Waterloo Street exceed the mapped FSR of 1:1, had the development included a commercial use along the ground floor, as originally proposed, the maximum FSR would instead be 1.5:1 of which the development would be significantly below. Notwithstanding, in considering the likely bulk and scale within the neighbourhood, it is relevant to consider that properties could be developed up to a maximum FSR of 1.5:1. Noting

the proposed development which achieves a maximum FSR of 1.09:1 and 1.14:1 being substantially below 1.5:1, it is not considered out of character with this desired future outcome for the area.

The proposed development has been designed to ensure the bulk and scale of the building does not detract from the streetscape and that it achieves an appropriate density in context to the surrounding sit."

Planner's comment: It is noted that subject to complying with the relevant clauses under 6.13 of Inner West LEP 2022, the proposed and immediately surrounding sites can allow FSR up to 1.5:1 for certain mixed-use developments. The proposed bulk and scale is also considered to be compatible with the streetscape. Accordingly, the breach is consistent with the first objective.

The **second objective of Section 4.4** is to ensure development density reflects its locality. The written request states:

The Site is located within the 'Rozelle Commercial Distinctive Neighbourhood' and in the sub area of 'Victoria Road'. The development proposes two dwellings with Torrens title subdivision over 17-19 Waterloo Street which is compatible with the existing character along Waterloo Street located away from the primary commercial strip along Victoria Road.

While the original application incorporated a mixed use development in line with the objectives of the DCP, the Architectural Design Panel and Council requested the development be amended to a residential development only, to better integrate with the surrounding established area. This has been achieved within the amended plans with the resulting development density below that of what could be achieved by neighbouring properties under IWLEP for a mixed use development being an FSR of 1.5:1.

Planner's comment: The Architectural Design and Review Panel made recommendations for the form of the building fronting Waterloo Street to be amended to a terrace housing from consisting of two houses (but there was no request for the Torrens subdivision of the site) to be more compatible with the surrounding developments on Waterloo Street. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4** is to provide an appropriate transition between development of different densities. The written request states:

*The dwellings have been designed up to a height of 3 storeys and act as a small transition between the Balmain Leagues Club (**Club**) development (to the southeast) which is proposed to extend up to a height of 16 storeys under the current modification and existing lower density development (to the northwest).*

The proposed development achieves similar setbacks to other properties along Waterloo Street and integrates balconies within the street facing façade to break up the appearance of the elevation from the street. The bulk and scale of the development will be considerably less than that of the adjoining Club development providing a further transition in the density between developments along Waterloo Street which reduces to the north. This adjoining development is currently seeking a residential FSR of 3.7:1 (variation) with LLEP 2000 permitting a residential FSR of 1.9:1.

Planner's comment: The adjoining property to the north-west is a two storey dwelling relying on existing use rights and the south-east is the Balmain Leagues Club site where a mixed-use development that consist with a maximum height of 12 storeys had been previously approved. The proposed form on Waterloo Street is considered an appropriate transition between these developments with different densities. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4** is to *minimise adverse impacts on local amenity*. The written request states:

The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area, cross ventilation, solar access and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site providing a high level of amenity.

Planner's comments: Subject to the recommended deferred commencement conditions, which addresses the amenity impacts to 21 Waterloo Street in relation to acoustic and visual privacy impacts as well as allowing adequate setback for maintenance purposes, there are no adverse amenity impacts to adjoining properties as a result of the non-compliance of Floor Space Ratio development standard. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4** to *increase the tree canopy and to protect the use and enjoyment of private properties and the public domain*. The written request states:

Consistent with the DCP requirements, the landscape area requirement within the private open space have been achieved. The proposed landscaping on the ground level provides opportunities for a range of planting including deep soil zone areas for future mature trees to support a green tree canopy.

The development responds to the public domain with activated street frontages through the orientation of buildings along the street level. The balconies to the upper floor levels allow passive surveillance to the public domain but also provide an open and welcoming streetscape when viewed from Waterloo Street. The façade design coupled with the material and colour scheme provides a modern and contemporary feel that enhances the streetscape.

Planner's comments: The proposed landscaped area is considered to be appropriate in this context and can be adequately used for recreational purposes for the private properties. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the Floor Space Ratio standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the Floor Space Ratio development standard:

Environmental Planning Ground 1 – *“The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site.”* This environmental planning ground is accepted because the proposal will achieve the required private open space and is acceptable with regard to bulk and scale.

Environmental Planning Ground 2 – *“Environmental objectives underpinning both the land use zoning, building height requirements and the need for consistency with the desired character for the area have not been compromised. This includes ensuring amenity impacts have been considered including privacy and solar access requirements.”* This environmental planning ground is not accepted because the proposal in its current form will result in privacy impacts to the adjoining property at Waterloo Street and conditions will be recommended to reduce the size of the rear balconies as well as deletion of the roof top terrace to mitigate these potential impacts.

Environmental Planning Ground 3 – *“This variation to the maximum FSR development standard is unlike a variation to a height control for example, where there is a specific area of encroachment. In this regard, there is not necessarily one specific area(s) responsible for the FSR variation. However, the overall visual impact of the building mass based on the FSR variation is considered minor with the building design incorporating a number of design elements to reduce the overall mass including setbacks, articulation, etc. The building mass as proposed also provides a suitable transition within the desired future character for the area.”*

This environmental planning ground is accepted because given the surrounding developments, it is considered that the proposed bulk and scale will have acceptable streetscape impacts and the built form will provide for an appropriate transition in heights. The additional FSR which is the equivalent of approximately 1 bedroom to each dwelling would not improve the amenity of surrounding properties or have a perceptible impact and as such is considered reasonable.

Environmental Planning Ground 4 – *“Surrounding properties are capable of achieving a maximum FSR of 1.5:1 where the development provides for ground level commercial use(s) in accordance with clause 4.4A of IW LEP 2022. Noting the development at 17 and 19 Waterloo Street achieves an FSR of 1.09:1 and 1.14:1 it would not be out of character with other potential future developments in the area being well below what could be achieved with a 1.5:1 FSR”.* This environmental planning ground is accepted because E1 Zoning does allow developments up to 1.5:1 FSR and this is an improved outcome for Waterloo Street.

Environmental Planning Ground 5 – *“The development remains consistent with the floor space ratio objectives under clause 4.4(1). In particular, the density achieved reflects the locality and provides a transition between the Club development and adjoining properties and enables suitable space for vegetative plantings.”* This environmental planning ground is accepted because given the surrounding developments, it is considered that the proposed bulk and scale will have acceptable streetscape impacts as it provides a transition between the club development and adjoining lower density residential properties.

Cumulatively, and while not all the grounds have been adequately made out, the grounds are considered sufficient to justify contravening the development standard subject to conditions to delete the proposed subdivision and conditions to address privacy impacts.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Part 6 – Additional Local Provisions

Section	Proposed	Compliance
Section 6.1 Acid Sulfate Soils	The site is identified as containing Class 5 Acid Sulfate Soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable.	Yes
Section 6.2 Earthworks	The proposed earthworks are unlikely to have a detrimental impact on environmental functions and processes, existing drainage patterns, or soil stability. Geotechnical Investigation by EI Australia (dated 1 September 2023) and Finite Element Analysis for Sydney Metro report E! Australia (10 January 2025) had been provided to support the application which includes excavation to create a basement level for parking. The Geotechnical Investigation by EI Australia (dated 1 September 2023) had outlined the following issues: <ul style="list-style-type: none"> • Presence of very loose to loose sands 	Yes, subject to conditions

Section	Proposed	Compliance
	<ul style="list-style-type: none"> • Basement excavation and retention to limit lateral deflections and ground loss as a result of excavations, resulting in damage to nearby structures • Rock excavation • Foundation design for building loads <p>To address these issues, the report had provided recommendations in relation to:</p> <ul style="list-style-type: none"> • Dilapidation Surveys • Demolition Considerations • Excavation Methodology • Groundwater Considerations • Excavation Retention • Foundations • Basement Floor Slab • Further Geotechnical Inputs <p>These reports will be included as stamped documents in the conditions of consent and a condition is included in the recommendation requiring the recommendations of this report, including the further geotechnical inputs prior to construction, to be carried out.</p> <p>Standard conditions regarding rock anchoring, excavation, structural and geotechnical reports and dilapidation reports have been recommended ensure no undue or adverse impacts will arise from the excavation works</p>	
Section 6.3 Stormwater Management	The development maximises the use of permeable surfaces, includes on site retention as an alternative supply and subject to standard conditions would not result in any significant runoff to adjoining properties or the environment.	Yes, subject to conditions
Section 6.8 Development in areas subject to aircraft noise	The site is located within the ANEF 15-20 contour, and therefore, an Acoustic Report addressing aircraft noise exposure and mitigation is not required in this instance in accordance with the provisions and objectives of this part of the LEP.	N/A
Section 6.9 Design Excellence	<p>The proposal has been considered against the provisions of this part of the LEP, and the following is noted:</p> <ul style="list-style-type: none"> • The proposed development is for the construction of a new building that exceeds 14 metres in height. The development is therefore required to demonstrate design excellence; and • In considering if the proposal exhibits design excellence, the application was referred to the Architectural Excellence & Design Review Panel (AEDRP) for comment. The recommendations from the AEDRP have been largely resolved or recommended as conditions of consent as detailed further in this report. 	Yes, subject to conditions
Section 6.13 Residential accommodation in Zones E1, E2 and MU1	Satisfactory - see discussion regarding use rights in the E1 zoning in an earlier section of the report.	Yes
Section 6.14 Diverse housing	Not applicable - see LLEP 2000 assessment previously in this report, given that the residential flat building component is	N/A

Section	Proposed	Compliance
	located on the portion of the site where the provisions of <i>LLEP 2000</i> apply	

B. Development Control Plans

Leichhardt Development Control Plan 2000 (LDPC 2000)

The proposal has been assessed against the following provisions of the LDPC 2000:

Part	Description	Satisfactory Compliance
A3.0	Principles of Ecological Sustainable Development	Yes
A3a.0	Sustainable Water and Risk Management	Yes
A4.0	Urban Form and Design	Yes
A5.0	Amenity	Yes
A6.0	Site Analysis	Yes
A8.0	Parking Standards and Controls	Yes, see discussion
A9a.0	Colours and Tones	Yes
A10.5.5	Rozelle Commercial Neighbourhood	Yes
B1.1	Demolition, Site Layout, Subdivision and Design	Yes
B1.2	Building Form, Envelope and Siting	Yes
B1.3	Car Parking	Yes, see discussion
B1.4	Site Drainage and Stormwater Control	Yes
B1.5	Elevation and Materials	Yes
B1.6	Front Gardens and Dwelling Entries	Yes
B1.8	Site Facilities	Yes
B2.8	Landscaping	Yes
B3.1	Solar Access	Yes, discussed in the section regarding assessment against <i>Housing SEPP</i>
B3.2	Private Open Space	Yes
B3.3	Visual Privacy	Yes, as conditioned and discussed in the section regarding assessment of <i>Housing SEPP</i>
B3.4	Access to Views	Yes
B3.5	Acoustic Privacy	Yes
B4.7	Diverse and Affordable Housing	Yes
C1.1	Site Layout and Building Design	Yes
C1.2	Parking Layout, Servicing and Manoeuvring	Yes
C1.3	Landscaping	Yes
C1.4	Elevation and Materials	Yes
C1.5	Site Facilities	Yes
C1.6	Shopfronts	Yes
C1.7	Protective Structures in the Public Domain – Balconies, Verandahs and Awnings	Yes
C2.0	Ecologically Sustainable Non-Residential Development	Yes
C2.1	Site Drainage and Stormwater Control	Yes
C2.2	Energy Efficient Siting and Layout	Yes

C2.3	Building Construction, Thermal Mass and Materials	Yes
C2.4	Solar Control, External Window Shading and Internal and External Lighting	Yes
C2.5	Insulation	Yes
C2.6	Ventilation	Yes
C2.7	Space Heating and Cooling	Yes
C2.8	Using Solar Energy	Yes
C2.9	Appliances and Equipment	Yes
C3.0	Interface Amenity	Yes
C3.1	Noise and Vibration Generation	Yes
C3.2	Air Pollution	Yes
C3.3	Water Pollution	Yes
C3.4	Working Hours	Yes

The application satisfies the above provisions, the following matters requires further discussion:

A8.0 Parking Standards and Controls and B1.3 Car Parking and C1.5 Site Facilities



Generic Parking Rates

Land Use	Car Parking					Bicycle Storage	
	Staff/ Residents		Visitors/ Shoppers		Mobility Impaired	Staff/ Residents	Visitors/ Shoppers
	Maximum	Minimum	Maximum	Minimum		Minimum	Minimum
Residential							
- Bed-sit	0.5 spaces per unit	Nil	0.2 spaces per unit	0.1 spaces per unit	See note (1)	0.33 spaces per unit	0.08 spaces per unit
- 1 bedroom	1 space per unit	0.5 spaces per unit	0.2 spaces per unit	0.1 spaces per unit	See note (1)	0.33 spaces per unit	0.08 spaces per unit
- 2 bedrooms	1.6 spaces per unit	0.8 spaces per unit	0.2 spaces per unit	0.1 spaces per unit	See note (1)	0.33 spaces per unit	0.08 spaces per unit
- 3 + bedrooms	2 spaces per unit	1 space per unit	0.2 spaces per unit	0.1spaces per unit	See note (1)	0.33 spaces per unit	0.08 spaces per unit
- Dwelling	2 spaces per dwelling	Nil	N/A		See note (1)	Nil	Nil
Commercial Premises	Overall parking requirement (including staff and shoppers parking):						
	Minimum: 1.5 spaces per 100m ²				See note (1)	5 spaces per 1000m ² GFA	1.33 spaces per 1000m ² GFA
	Maximum: 3 spaces per 100m ²						

The minimum parking requirements for mixed use development fronting Victoria Road are as follows:

- Residential = 1 Bed x 3 (1.5 spaces), 2 Bed x 7 (5.6 spaces), 3 Bed x 1 (1 space)
- Commercial premises = 56 sqm = (0.84 spaces)
- Visitor – 0.1 x 11 = 1.11
- Total = 10.05 spaces

The proposed development proposes 12 car parking spaces on the eastern side of the development, with 2 accessible parking spaces and 1 space dedicated to the commercial use and therefore complies with the above requirements. Council’s Development Engineer has

reviewed the updated car parking design and considers the design to be acceptable subject to the imposition of conditions as included in the recommendation.

It is acknowledged that vehicular access to the site relies on the development on the adjoining site (Balmain Tigers redevelopment). Condition 140 of that approval requires an easement to be registered prior to the issue of an Occupation Certificate, to enable this site to have basement access as follows;

140. Easements – Neighbouring sites

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with evidence that:

- 1. An easement for vehicular access in favour of the parcels of land to be accessed, being the neighbouring property 168-172 Victoria Road, Rozelle, has been created within the site of the proposed development over the full length of the path of travel for a B99 design vehicle to/from the Waterloo frontage and to the Victoria Road frontage from the benefited property .*
- 2. An easement for pedestrian access and transfer of waste in favour of the neighbouring property 168-172 Victoria Road, Rozelle, has been created within the site of the proposed development over the full length of the path of travel to/from the benefited property to the waste room of the proposed development.*
- 3. Certification from a qualified practising Structural and Geotechnical Engineer(s) that:*
- 4. The Easements must be shown on the Certificate and Plan, together with the relevant rights of the benefited properties and Works as Executed plans at the points of connection between the properties. The rights must be consistent with the vehicular ingress/egress requirements for the proposed development.*
- 5. Proof of registration of the easements including on all relevant titles.*
- 6. The walls at the boundary with the neighbouring property 168-172 Victoria Road, Rozelle have been suitably constructed to enable the wall to be removed in future to provide a connection\opening to the neighbouring property for vehicular access at the north western property boundary of Basement Level 1.*
- 7. The walls at the boundary with the neighbouring property 168-172 Victoria Road, Rozelle have been suitably constructed to enable the wall to be removed in future to provide a connection\opening to the neighbouring property for pedestrian access and transfer of waste bins to the Residential Waste Collection Area at the north western property boundary of Lower Ground Floor.*

As both the proposed parking and waste facilities rely on an easement through the Balmain Leagues Club site for access, a condition is included in the recommendation that an Occupation Certificate cannot be issued until the Balmain Leagues Club is constructed to the point where the Principal Certifying Authority can issue at least a Part Occupation certificate for the Balmain League Club to allow safe vehicular access for the subject for parking and waste purposes.

Leichhardt Development Control Plan 2013 (LDCP 2013)

Summary

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013 (LDCP 2013).

LDCP 2013	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes

Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes
C1.6 Subdivision	No – see discussion
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes
C1.12 Landscaping	Yes
C1.14 Tree Management	Yes– see discussion in SEPP (Biodiversity and Conservation) 2021
Part C: Place – Section 2 Urban Character	
C2.2.5.5 Rozelle Commercial Distinctive Neighbourhood	Yes – see discussion
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	Yes – see discussion
C3.3 Elevation and Materials	Yes
C3.5 Front Gardens and Dwelling Entries	Yes
C3.6 Fences	Yes
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	Yes
C3.9 Solar Access	See discussion regarding solar access in earlier section of the report in relation to Housing SEPP.
C3.10 Views	Yes
C3.11 Visual Privacy	No – see discussion
C3.12 Acoustic Privacy	No – see discussion
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	Yes
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.2 Water Management	Yes

E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes

C1.6 Subdivision

The proposal proposes Torrens subdivision of the site at 17-19 Waterloo Street to create two lots with a dwelling located on each lot.

It is noted that the map identifying the minimum lot use provisions in the *IWLEP 2022* does not apply to the subject site.

Considering the complexity of the basement, the additional development potential afforded to a Torrens lot, and the lack of sufficient evidence to demonstrate existing use rights for a dwelling house, the proposal for Torrens subdivision is not supported in the circumstances.

As discussed in an earlier section of the report in relation to permissibility/existing use rights, a condition will be included in the recommendation requiring the proposed dwellings to be constructed and fit for occupation until the issue of any subdivision certificates

C1.11 Parking

The following parking rates applies to the proposed dwellings that front Waterloo Street;

Parking Rates				
Land Use	Residents		Visitors	
	Minimum	Maximum	Minimum	Maximum
Residential				
Single dwelling house	Nil	2 spaces per dwelling house	Nil	Nil

As 4 parking spaces are proposed, this complies with the parking requirements. As discussed above, access to this parking is via the Balmain Leagues Club site and conditions will be imposed to address this issue.

C3.2 Site Layout and Building Design

Building Location Zone

The proposed dwellings are located on the lot fronting Waterloo Street which is within E1 Zone. The adjoining site to the north-west is a two storey dwelling house (also within an E1 Zoning relying on existing use rights) and to the south-east is the Balmain Leagues Club site which approved three storey mixed-use developments on the Waterloo Street frontage and will have club/entry to car parking that will span beyond the entire length of 17-19 Waterloo Street lot.

Due to the different mix of uses and lot shapes and sizes, there are no prevailing Building Location Zones (BLZ), but as the application proposes new dwellings which are three levels in height and 21 Waterloo Street is only two storeys in height, the proposal does establish a new building location zone at the third level.

Pursuant to Control C6 under this Part of the LDCP 2013, where a proposal seeks a variance to the BLZ, various tests need to be met. These tests are assessed below:

Merit Test	Comment
Amenity (solar access/privacy)	As discussed in a later sections below, the solar access impacts to adjoining properties are acceptable but the proposal will have some adverse visual privacy impacts. Therefore conditions are recommended to delete the proposed roof top terraces to the Waterloo Street development and reduce the size of the rear balconies to these proposed dwelling houses.
Streetscape & scale	The amended design to provide the terrace house forms is considered to be a significant improvement to the original scheme. The amended plans have been reviewed by the AEDRP and is considered to be of a form that, subject to conditions, will be compatible with the Waterloo Streetscape.
Private open space	The proposed Waterloo Street dwellings will have a compliant amount of private open space located at ground level.
Significant vegetation	While existing trees will be required to be removed to facilitate the development, the proposed landscaped plans are considered to be satisfactory and provide adequate replacement planting.
Visual bulk & height	Subject to the deletion of the roof-top terraces associated with the Waterloo Street dwellings and reduction of the rear balconies (and provide private screens instead of blade walls), the proposed visual bulk and height is considered to be acceptable.

Accordingly, the establishment of a new BLZ at third floor level is acceptable

Side Setbacks

Control C7 at Section C3.2 of the LDCP 2013 relates to side setback requirements and applies a sliding scale to setbacks, in conjunction with the relative wall heights. Noting that the subject site adjoins the Balmain Leagues Club site to the south-east where the approved structures of the Balmain Leagues Club development extends the entire length of the proposed site, there are no impacts to the Balmain Leagues Club site and the main focus will be on the impacts to 21 Waterloo Street, which adjoins the proposed site to the north-west. The proposal seeks a wall height of 9.2m to 10.7m to its south-east boundary and 8.5m to 10.5m to the north-west boundary (shared with 21 Waterloo), as such the building is required to be setback 4.6 m to the south-east boundary and 4.4 m to the north-west boundary, however approximately a 0.1m side setback is proposed to these side boundaries (not clearly stated on the proposed drawings, but 0.1m is measured from the scaled drawings).

Pursuant to Clause C3.2 of the LDCP 2013, where a proposal seeks a variation of the side setback control graph, various tests need to be met. These tests are assessed below:

Merit Test	Comment
Building typology	The proposed built form has been reviewed by council’s AEDRP and is considered to be a form that is acceptable.
Pattern of Development	Roof top terraces on the fourth level are not part of the pattern of development in this locality and as discussed in other sections of the report, will be required to be removed from the proposal due to privacy impacts. Subject to the deletion of the roof top terraces through a Deferred Commencement condition, the proposed development is considered to be consistent with the pattern of development in the locality.
Bulk and Scale	The proposed development (including the blade walls associated with the rear balconies) will extend approximately 4.7 metres beyond the rear alignment of 21 Waterloo Street (and the existing town houses extends approximately 3 metres beyond the rear alignment of 21 Waterloo Street). In order to reduce the bulk and scale impacts when viewed from the private open space of 21 Waterloo, the rear

Merit Test	Comment
	<p>balconies proposed on the terraces are to be reduced in size to a maximum of 2.4 sqm (i.e. 2.6m x 0.9m) by setting back the balcony further away from the north-western and south-eastern boundaries and the associated blade walls to be deleted and replaced with privacy screens with a height of 1.6 metres measured from the finished floor levels of the rear balconies. The north-western wall of the terraces is also required to be setback 500mm from the northern-western boundary to address both bulk and scale impacts and allow adequate maintenance of the existing pipes located on the south-eastern wall of 21 Waterloo Street.</p> <p>Subject to these conditions, the bulk and scale impacts are considered to be acceptable.</p>
Amenity Impacts	Subject to conditions mentioned above, the amenity impacts to adjoining properties are considered to be satisfactory.
Maintenance of adjoining properties	It is noted that the proposed plans indicate a gap is to be retained between buildings to not disturb existing pipes and ventilation from 21 Waterloo St. To ensure that the existing pipes can be maintained, the design is to be amended so that the north-western walls of the proposed terrace dwellings is setback at least 500mm from the shared boundary, this is to be confirmed by a registered surveyor.

Accordingly, subject to conditions, the proposed extension to the north-western side boundary is acceptable.

C3.11 Visual Privacy and C3.12 Acoustic Privacy

The following controls are applicable in C3.11 Visual Privacy

- *C1 Sight lines available within 9m and 45 degrees between the living room or private open space of a dwelling and the living room window or private open space of an adjoining dwelling are screened or obscured unless direct views are restricted or separated by a street or laneway.*
- *C4 Roof terraces will be considered where they do not result in adverse privacy impacts to surrounding properties. This will largely depend on the:*
 - a. design of the terrace;*
 - b. the existing privacy of the surrounding residential properties;*
 - c. pre-existing pattern of development in the vicinity; and*
 - d. the overlooking opportunities from the roof terrace.*
- *C5 The provision of landscaping may be used to complement other screening methods but cannot be solely relied upon as a privacy measure.*
- *C7 New windows should be located so they are offset from any window (within a distance of 9m and 45 degrees) in surrounding development, so that an adequate level of privacy is obtained/retained where such windows would not be protected by the above controls (i.e. bathrooms, bedrooms).*
- *C9 Balconies at first floor or above at the rear of residential dwellings will have a maximum depth of 1.2m and length of 2m unless it can be demonstrated that due to the location of the balcony there will be no adverse privacy impacts on surrounding residential properties with the provision of a larger balcony.*

- *C10 Living areas are to be provided at ground floor level to minimise opportunities for overlooking of surrounding residential properties.*

The following controls are applicable in C3.12 Acoustic Privacy

- *C3 Noise generating areas that are not contained within buildings, such as private outdoor open space, parking and service equipment, are located and oriented away from bedroom windows on adjoining sites.*
- *C8 Private open space is encouraged to be located away from bedrooms on adjoining properties to ensure minimal acoustic impacts.*

The proposed dwellings include extensive private open spaces areas on the first floor and above which includes a roof-terrace on each lot as well as 4 balconies on each lot (i.e. total of 10 balconies/roof top terraces) all exceeding the balcony size requirements under C3.11 – Visual Privacy of LDCP 2013.

C10 of C3.11 and C8 of C3.12 both require private open space to be located at ground floor levels, and there is no necessity for such large areas of private open space to be located at first floor and above as these are dwelling houses.

With regard to the roof top terraces associated with the dwellings on the Waterloo Street frontage, the surrounding residential dwelling house do not have roof terraces, and the proposed terraces will have sightlines into the properties at 21 Waterloo Street as well as sightlines into the rear yards of each other. There are also concerns about the potential acoustic privacy impacts generated from these roof terraces as their sizes would also enable them to be used for entertainment purposes for an extended period of time. Therefore, it is considered that these proposed roof terraces are likely to result in adverse privacy impacts and are not supported as per C4 under C3.11 of Leichhardt DCP 2013.

The rear balconies of the proposed dwelling houses will also have sightlines into adjoining properties as well as sightlines into the back yard of the proposed dwellings fronting Waterloo Street. As the proposed sizes of these rear balconies exceed the maximum requirements under C9 under C3.11 of LDCP 2013, design change conditions are recommended requiring the rear balconies to be reduced to a maximum size of 2.4sqm (i.e. 2.6 m x 0.9m) and the associated blade walls are to be deleted and replaced with privacy screens with a height of 1.6 metres measured from the finished floor levels of the rear balconies, and requiring the roof top terraces to be deleted.

The issues raised above will be addressed by Deferred Commencement conditions.

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development, subject to recommended conditions, will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential and commercial neighbourhood and amongst similar uses to that proposed.

E. Submissions

The application was required to be notified in accordance with Council’s Community Engagement Strategy between 09 May 2024 to 06 June 2024. It was renotified in between 14 May and 11 June 2024 for a system error (no change in design). It was renotified a second time between 12 November 2024 – 10 December 2024 as amended plans were submitted for assessment.

A total of 1 submission was received in response to the initial notification. A total of 3 submissions were received in response to the first renotification period. The application was renotified again due to amended plans being submitted and 3 submissions were received (1 submission being a letter of support) and a total of 7 submissions were received during the notification periods (1 being a letter of support). Issues raised as follows have been discussed in this report:

- A. Solar Access – see assessment in *SEPP (Housing) 2021* - Chapter 4 Design of Residential Apartment Development; and
- B. Clause 4.6 Variation – see assessment in *LLEP 2000* and *IWLEP 2022*

Further issues raised in the submissions received are discussed below:

Concern	Comment
Risk to structural integrity	In this regard, the Geotechnical report prepared by EIAustralia will be included as a stamped document in the conditions of consent with the development required to be undertaken in accordance with its recommendations to protect the safety of neighbouring development. Standard conditions in relation to excavation will be included in the conditions of consent and conditions will also be recommended to require dilapidation reports pre and post construction to the adjoining properties.
Lack of airflow/pipes located on the side wall adjoining the proposed site	To address the maintenance issue, a Deferred Commencement condition has been recommended that requires the proposed attached dwellings fronting Waterloo Street to be setback a minimum 500mm from the side boundary shared with 21 Waterloo Street.
Traffic	The application has been supported by an updated Traffic and Parking report proposed by Stanbury Traffic Planning dated 21 October 2024 which has been reviewed by council’s engineering section and the proposed traffic impacts are considered to be acceptable.
Bulk and scale	Due to the nature of the development, the proposed development was required to be reviewed by the Architectural Excellence Design and Review Panel and the proposed bulk and scale of the amended design was considered to be acceptable.
Privacy/Noise	As discussed in earlier sections of the report, there are concerns regarding the impacts to 21 Waterloo Street from the balconies of Units 1, 5 and 9 of the proposed residential flat building and the excessive size of rear balconies and the roof-top terraces of the attached dwellings fronting Waterloo Street. Therefore conditions are included in the recommendation to reduce the sizes of the balconies of Units 1, 5 and 9 to a maximum of 8sqm (2m x 4m) and requiring privacy screens on the north-western sides and well as the privacy screens returning a minimum 2 metres on the south-western side of these balconies. The rear balconies of the proposed attached dwellings fronting Waterloo Street will be required to be reduced to a minimum size

	of 2.4 sqm and the roof terraces will be conditioned to be deleted from the proposal.
Protection of solar rights for the purposes of hot water heating, energy generation using photo-voltaic (PV) panels and passive internal space heating to 23 Waterloo Street	Notwithstanding that assessment cannot be made against a hypothetical development in the future, due to the orientation and location of 23 Waterloo Street, there are limited impacts to 23 Waterloo Street where there are no overshadowing impacts between 10am and 3pm during winter solstice and the overshadowing at 9am will mostly be within the shadows cast by the rear fence of 23 Waterloo Street at 9am.
This development will leave one small awkward residential building on the corner of Victoria Road before the service station	There is no prescribed amalgamation pattern for the sites, and the subject residential building at 174 Victoria Road does have the potential to redevelop in the future noting that it has an E1 zoning, and the current residential use on the site relies on existing rights to operate.
Waterloo St elevation not compatible with Streetscape/inadequate front setback	It is agreed that the original scheme which proposed a mixed-use development on Waterloo Street was not compatible with the Waterloo Street Streetscape. The amended proposal which proposes an attached dwelling form is considered to be acceptable subject to conditions as discussed elsewhere in the report. The amended design also proposes to setback the proposed building approximately 3.2 metres from the Waterloo Street front boundary and is considered to appropriate.

F. The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$155,700 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of \$92,855.81 would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EPA Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer;
- Urban Forest;
- Resource Recovery;
- Environmental Health;
- Building Certification;

The following external referrals were made, and their comments have been considered as part of the above assessment:

- Transport for NSW;
- Ausgrid;

9. Conclusion

The proposal, subject to recommended conditions, generally complies with the aims, objectives and design parameters contained in relevant EPIs, the *LLEP 2000* and *IWLEP 2022* and LDCP 2000 and Leichhardt DCP 2013.

The development, subject to recommended conditions, will not result in any significant impacts on the amenity of the adjoining properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for the issue of a Deferred Commencement consent subject to the imposition of appropriate terms and conditions.

10. Recommendation

- A. In relation to the proposal by the development in Development Application No.2024/0925 to contravene the FSR development standard in 23(1)(b) of Leichhardt *Local Environmental Plan 2000* and Clause 4.1 of *Inner West Local Environmental Plan 2022*, the Panel is satisfied that the Applicant has demonstrated that:
- iii. compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - iv. there are sufficient environmental planning grounds to justify the contravention of the development standard.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant *Deferred Commencement* consent to Development Application No. DA/2024/0306 for integrated development under the Road Acts 1993. Works include demolition of existing structures and construction of a four-storey mixed use building, including ground floor commercial space, residential accommodation above, and basement car parking, and associated works and construction of two dwelling houses with Torrens title subdivision and associated works at 168-172 Victoria Road and 17-19 Waterloo Street, ROZELLE subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DEFERRED COMMENCEMENT

1. Deferred Commencement Condition

Council must be provided with amended plans demonstrating the following:

- a. The proposed Terrace House with frontage to Waterloo Street must be setback 500mm from the side boundary shared with 21 Waterloo Street.
- b. The rear balconies of the proposed Terrace Houses are to be reduced to a maximum size of 2.4sqm (i.e. 2.6 m x 0.9m) and the associated blade walls to be deleted and replaced with privacy screens with a height of 1.6 metres measured from the finished floor levels of the rear balconies.
- c. The proposed roof top terraces to the Terrace Houses are to be deleted and replaced by non-trafficable roofing.
- d. The balconies of Units 1, 5 and 9 to be reduced to a maximum of 8sqm with dimensions 2m x 4m (depth x width) with fixed privacy screens on the northwestern side (i.e. west side as nominated on the architectural drawings) of the balconies and fixed privacy screens to return at least 2 metres on the southwestern side (i.e. south side as nominated on the architectural drawings) of the balconies. Changes to the glazing and internal configurations can be undertaken to accommodate this change
- e. The balustrades to the balconies of Units 1, 5 and 9 on the northwestern side (i.e. west side as nominated on the architectural drawings) to be of a solid/opaque finish.
- f. Units 06 and Unit 08 to achieve 8m³ of storage area (with at least 50% of the required storage located within the apartment).
- g. The proposed torrens subdivision associated with 17-19 Waterloo Street to be removed and replaced by Strata subdivision.

Reason: To ensure that the design changes protect the amenity of the neighbourhood..

GENERAL CONDITIONS

Condition	
1.	<p>Contamination – Remedial Action Plan (Site Auditor Engaged)</p> <p>The site is to be remediated and validated in accordance with all the recommendations set out in the Remedial Action Plan, prepared by Getex Pty Limited, reference 12289.01.RMAP dated 10 April 2024, the Contaminated Land Management Act 1997 and Chapter 4 - Remediation of Land of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination and ensure that the development is carried out in accordance with the consent.</p>

2.	<p>Mechanical Ventilation System Certification</p> <p>The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:</p> <ol style="list-style-type: none"> 1. Australian Standard AS 1668 Part 1 – 1998; 2. Australian Standard AS 1668 Part 2 – 2012; 3. Australian Standard 3666.1 – 2011; 4. Australian Standard 3666.2 – 2011; and 5. Australian Standard 3666.3 - 2011. <p>The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.</p> <p>Reason: To ensure compliance with the relevant Australian Standards.</p>
3.	<p>Recycling / Garbage / Organics Service Information and Education</p> <p>The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
4.	<p>Bin Storage</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
5.	<p>Separation of Commercial and Residential Waste and Recycling</p> <p>The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.</p> <p>Reason: Commercial/retail premises and residential properties pay separate charges for waste and recycling collection.</p>
6.	<p>Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>

<p>7.</p>	<p>Permits</p> <p>Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:</p> <ul style="list-style-type: none"> • Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>
<p>8.</p>	<p>Insurances</p> <p>Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.</p> <p>Reason: To ensure Council assets are protected.</p>
<p>9.</p>	<p>Rock Anchors</p> <p>For use of temporary anchors, you must make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:</p> <ol style="list-style-type: none"> 1. Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate. 2. Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.

	<p>3. The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>																																
10.	<p>Electrical Substations</p> <p>Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>																																
11.	<p>Noise – Consultant’s Recommendations</p> <p>All the recommendations contained in the acoustic report prepared by Vipac Engineers and Scientists Limited, reference 20E-23-0014-TRP-62266-0 dated 11 August 2023, must be implemented.</p> <p>Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.</p>																																
12.	<p>Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table border="1"> <thead> <tr> <th>Plan, Revision and Issue No.</th> <th>Plan Name</th> <th>Date Issued/Received</th> <th>Prepared by</th> </tr> </thead> <tbody> <tr> <td>DA100, Revision: 03</td> <td>SITE PLAN & ANALYSIS PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA101, Revision: 03</td> <td>DEMOLITION PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA102, Revision: 03</td> <td>AMALGAMATION & SUBDIVISION PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA103, Revision: 03</td> <td>BASEMENT PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA104, Revision: 03</td> <td>GROUND FLOOR PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA105, Revision: 03</td> <td>FIRST FLOOR PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> <tr> <td>DA106, Revision: 03</td> <td>SECOND FLOOR PLAN</td> <td>10/01/2025</td> <td>SRH Architecture Pty Ltd</td> </tr> </tbody> </table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	DA100, Revision: 03	SITE PLAN & ANALYSIS PLAN	10/01/2025	SRH Architecture Pty Ltd	DA101, Revision: 03	DEMOLITION PLAN	10/01/2025	SRH Architecture Pty Ltd	DA102, Revision: 03	AMALGAMATION & SUBDIVISION PLAN	10/01/2025	SRH Architecture Pty Ltd	DA103, Revision: 03	BASEMENT PLAN	10/01/2025	SRH Architecture Pty Ltd	DA104, Revision: 03	GROUND FLOOR PLAN	10/01/2025	SRH Architecture Pty Ltd	DA105, Revision: 03	FIRST FLOOR PLAN	10/01/2025	SRH Architecture Pty Ltd	DA106, Revision: 03	SECOND FLOOR PLAN	10/01/2025	SRH Architecture Pty Ltd
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DA107, Revision: 03	THIRD FLOOR PLAN	10/01/2025	SRH Architecture Pty Ltd
DA108, Revision: 03	ROOF FLOOR PLAN	10/01/2025	SRH Architecture Pty Ltd
DA109, Revision: 03	ADAPTABLE UNIT LAYOUTS	10/01/2025	SRH Architecture Pty Ltd
DA110, Revision: 03	GROUND FLOOR PLAN - WASTE PATH	10/01/2025	SRH Architecture Pty Ltd
DA111, Revision: 03	BASEMENT - RIGHT OF WAY	10/01/2025	SRH Architecture Pty Ltd
DA200, Revision: 03	ELEVATIONS	10/01/2025	SRH Architecture Pty Ltd
DA201, Revision: 03	ELEVATIONS	10/01/2025	SRH Architecture Pty Ltd
DA202, Revision: 03	ELEVATIONS	10/01/2025	SRH Architecture Pty Ltd
DA210, Revision: 03	ELEVATIONS	10/01/2025	SRH Architecture Pty Ltd
DA220, Revision: 03	ELEVATIONS	10/01/2025	SRH Architecture Pty Ltd
DA230, Revision: 03	STREETSCAPE ELEVATION	10/01/2025	SRH Architecture Pty Ltd
DA231, Revision: 03	STREETSCAPE ELEVATION	10/01/2025	SRH Architecture Pty Ltd
DA300, Revision: 03	SECTIONS	10/01/2025	SRH Architecture Pty Ltd
DA301, Revision: 03	SECTIONS	10/01/2025	SRH Architecture Pty Ltd
DA302, Revision: 03	DETAIL SECTION	10/01/2025	SRH Architecture Pty Ltd
DA700, Revision: 03	SCHEDULE OF MATERIALS AND FINISHES	10/01/2025	SRH Architecture Pty Ltd
SK501, Revision C	FOUNDATIONS	10/01/2025	SRH Architecture Pty Ltd

	SK502, Revision B	BASEMENT	16/01/2025	SRH Architecture Pty Ltd
	SK503, Revision B	GROUND FLOOR	16/01/2025	SRH Architecture Pty Ltd
	SK504, Revision B	FIRST FLOOR	16/01/2025	SRH Architecture Pty Ltd
	SK505, Revision B	SECOND FLOOR	16/01/2025	SRH Architecture Pty Ltd
	SK506, Revision B	THIRD FLOOR	16/01/2025	SRH Architecture Pty Ltd
	SK507, Revision B	ROOF	16/01/2025	SRH Architecture Pty Ltd
	SK508, Revision B	METRO REFERENCE PLAN	16/01/2025	SRH Architecture Pty Ltd
	SK509, Revision B	METRO REFERENCE PLAN	16/01/2025	SRH Architecture Pty Ltd
	SK510, Revision A	WESTCONNEX REFERENCE PLAN	10/01/2025	SRH Architecture Pty Ltd
	SK511, Revision A	WEST CONNEX REFERENCE SECTIONS	10/01/2025	SRH Architecture Pty Ltd
	STW-000, Rev 2	METRO REFERENCE SECTIONS	02.08.23	TORINEX CONSULTING ENGINEERS
	STW-101, Rev 3	STORMWATER MANAGEMENT PLAN SITE DRAINAGE DETAILS	06.09.23	TORINEX CONSULTING ENGINEERS
	STW-101, Rev 2	STORMWATER MANAGEMENT PLAN BASEMENT	06.09.23	TORINEX CONSULTING ENGINEERS
	STW-102, Rev 3	STORMWATER MANAGEMENT PLAN GROUND FLOOR	06.09.23	TORINEX CONSULTING ENGINEERS
	STW-103, Rev 2	STORMWATER MANAGEMENT PLAN FIRST FLOOR	06.09.23	TORINEX CONSULTING ENGINEERS

STW-104, Rev 2	STORMWATER MANAGEMENT PLAN SECOND FLOOR	06.09.23	TORINEX CONSULTING ENGINEERS
STW-105, Rev 2	STORMWATER MANAGEMENT PLAN THIRD FLOOR	06.09.23	TORINEX CONSULTING ENGINEERS
STW-106, Rev 2	STORMWATER MANAGEMENT PLAN THIRD FLOOR	06.09.23	TORINEX CONSULTING ENGINEERS
STW-200, Rev 2	STORMWATER MANAGEMENT PLAN CATCHMENT PLAN	06.09.23	TORINEX CONSULTING ENGINEERS
STW-201, Rev 2	EROSION AND SEDEMENTATION CONTROL PLAN	06.09.23	TORINEX CONSULTING ENGINEERS
STW-202, Rev 2	EROSION & SEDIMENTATION CONTROL DETAILS	06.09.23	TORINEX CONSULTING ENGINEERS
STW-301, Rev 3	TYPICAL DETAILS	06.09.23	TORINEX CONSULTING ENGINEERS
STW-302, Rev 2	TYPICAL DETAILS	06.09.23	TORINEX CONSULTING ENGINEERS
STW-303, Rev 1	STORMWATER MANAGEMENT PLAN FIRST FLOOR	25.07.23	TORINEX CONSULTING ENGINEERS
Issue 2	Electrolysis & Stray Traction Current Report	18 OCT 2024	TORINEX CONSULTING ENGINEERS
12289.01.PSCA, Revision 0	PHASE 1 PRELIMINARY SITE CONTAMINATION INVESTIGATION	4 September 2023	Getex Pty Limited
12289.01.TSCA, Revision 0	PARTIAL PHASE 2 SITE CONTAMINATION ASSESSMENT	28 March 2024	Getex Pty Limited
12289.01.RMAP, Revision 0	REMEDIAL ACTION PLAN	10 April 2024	Getex Pty Limited
E26113.G03	Geotechnical Investigation	1 September 2023	EI Australia

	E26113.G06	Finite Element Analysis for Sydney Metro	10 January 2024	EI Australia
	20E-23-0014-TRP-62266-0	Acoustic report	11 August 2023	Vipac Engineers and Scientists Limited
	LP01- 1323, Revision F	Site Plan	22.10.24	TWLA
	LP02- 1323, Revision F	Landscape Plan - Ground Internal	22.10.24	TWLA
	LP03- 1323, Revision F	Landscape Plan - Ground_Waterloo St	22.10.24	TWLA
	LP04- 1323, Revision F	Landscape Plan - Ground_Victoria Rd	22.10.24	TWLA
	LP05- 1323, Revision F	Landscape Plan - Level 1	22.10.24	TWLA
	LP06- 1323, Revision F	Landscape Plan - Level 2	22.10.24	TWLA
	LP07- 1323, Revision F	Landscape Plan - Level 3	22.10.24	TWLA
	LP08- 1323, Revision F	Landscape Plan - Roof	22.10.24	TWLA
	1412572M_03	BASIX Certificate	24 October 2024	EPS
<p>As amended by the conditions of consent.</p> <p>Reason: To ensure development is carried out in accordance with the approved documents.</p>				
13.	<p>Residential Flat Buildings – Air Conditioning Systems</p> <p>Where units or dwellings are provided with separate individual air conditioning systems, these must be located so they are not visible from the street.</p> <p>Reason: To protect the visual amenity of the neighbourhood.</p>			
14.	<p>Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>			
15.	<p>Storage of materials on public property</p> <p>The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.</p> <p>Reason: To protect pedestrian safety.</p>			

16.	<p>Other works</p> <p>Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
17.	<p>National Construction Code (Building Code of Australia)</p> <p>A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
18.	<p>Notification of commencement of works</p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:</p> <ul style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ul style="list-style-type: none"> i. The name and licence number of the principal contractor; and ii. The name of the insurer by which the work is insured under Part 6 of that Act. b. In the case of work to be done by an owner-builder: <ul style="list-style-type: none"> i. The name of the owner-builder; and ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. <p>Reason: To ensure compliance with legislative requirements.</p>
19.	<p>Dividing Fences Act</p> <p>The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
20.	<p>Dial before you dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
21.	<p>Lead-based Paint</p> <p>Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or</p>

	<p>pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.</p> <p>Reason: To protect human health.</p>
22.	<p>Required Conditions of Consent – Protection of CBD Metro Corridor</p> <p><u>Prior to the Issue of the Occupation Certificate</u></p> <ul style="list-style-type: none"> • Prior to the Issue of the Occupation Certificate, the applicant is to submit the as-built drawings to TfNSW. <p>Reason: To achieve compliance with conditions imposed by a concurrence body.</p>
23.	<p>Required Conditions of Consent – Protection of CBD Metro Corridor</p> <p><u>General Conditions</u></p> <ul style="list-style-type: none"> • All structures which are proposed for construction or installation, or which are constructed or installed, in connection with the approved development that have a potential impact on the CBD Metro must be designed, constructed and maintained in accordance with design criteria specified by the Transport for NSW (TfNSW); • The design and construction of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW; • The applicant must make allowances that are to be agreed with TfNSW in the design, construction and maintenance of the approved development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety; • The design and construction of the foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW. An accurate plan/CAD model should be included for the proposed foundations, to enable verification against the CBD Metro model. The foundation design and any encroachment into Exclusion Zone and beyond must comply with the limitations of the Structure Exclusion Zones as required by TfNSW. • No modifications may be made to the approved design without the consent of TfNSW; • The applicant must provide access by representatives of TfNSW upon request to the site of the approved development and all structures on that site during all stages of the development; • TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought; • Copies of any certificates, drawings or approvals given to or issued by TfNSW must be delivered to Council for its records; and • All TfNSW costs associated with review of plans, designs and legal must be borne by the applicant. <p>Reason: To achieve compliance with conditions imposed by a concurrence body.</p>

24.	<p>Required Conditions of Consent – Protection of CBD Metro Corridor</p> <p><u>Prior to the Issue of the Construction Certificate</u></p> <p>The applicant should consult with TfNSW to confirm the timing of the each construction certificate and associated documentation and activities prior to preparation of requested documentation. The applicant should provide the information to TfNSW for review and endorsement. The Principal Certifying Authority (PCA) is not to issue the relevant Construction Certificate until received written confirmation from TfNSW that the following conditions have been complied with.</p> <ul style="list-style-type: none"> • Prior to issue of any Construction Certificate, the applicant shall address the adverse effects of the approved development on the CBD Metro identified in State Environmental Planning Policy (Transport and Infrastructure) 2021. The applicant must: <ul style="list-style-type: none"> o Provide the following for TfNSW review and endorsement: <ul style="list-style-type: none"> • Geotechnical Report - Geotechnical Report shall be updated with an engineering assessment of the ground/structure interaction, associated with the future tunnel construction shall be required. A detailed geotechnical and hydrological analysis shall be undertaken to the satisfaction of TfNSW to demonstrate likely movements of the ground due to the future CBD Metro; • Finite Element Analysis (FEA) – The FEA shall be updated to include the following: <ul style="list-style-type: none"> • References of architectural drawings, structural drawings and survey plans should be the latest revision; • The structural load of the proposed development should not be assumed and modelled as a uniformly distributed. The concentrated loads could have different impacts on the assessment; • Demolition of existing building needs to be modelled; • Confirmation that excavation of basement and applied building loads have been modelled at the same time; • Maximum settlement of the proposed basement's footing based the results of PLAXIS Analysis with the relevant contour plots; and
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	<ul style="list-style-type: none"> • PLAXIS plots should have correctly referenced in relation to total / vertical settlements. • Structural Assessment - Structural Report shall be provided with structural foundation design and associated drawings and to confirm the appropriate consideration of the future CBD Metro to enable verification of compliance to TfNSW requirements in relation to the foundation loadings and layout, bearing pressures, settlement value allowance, soil /structure interaction stresses and movements in the protection zone. Structural drawings should show offsets to the CBD Metro including protection zones in both plan and elevation sections; The Structural Report / drawings shall also include the following: <ul style="list-style-type: none"> • Confirmation that pile bearing capacity has been checked by geotechnical engineer; • Confirmation that the elevations of future metro running tunnels including tunnel crown level match with TfNSW information provided; and • The drawings for the future metro running tunnels are correctly referenced in the Structural Letter. • Noise and Vibration – Acoustics Report shall be updated in accordance with the TfNSW Corridor Protection requirements such as all structures must be designed, constructed and maintained so as to avoid any damage or other interference which may occur as a result of noise and vibration from railway operations, on the assumption that source vibration level from trains as a result of attenuation provided by the track structure; The updated Noise and Vibration report shall also include the following: <ul style="list-style-type: none"> • References to latest architectural drawings; • Confirmation that noise loggers have been properly calibrated and suitable for the work; and • Confirmation that the levels of the CBD Metro tunnels match with TfNSW reference design levels. Future CBD Metro Rozelle Station and associated works are not required to be included in the report. Metro running tunnels
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	<p>are adjacent to the site and tunnel construction would be by TBM.</p> <ul style="list-style-type: none"> • Electrolysis Report - All Structures must be designed, constructed and maintained so as to avoid any damage or other interference, which may occur as a result of stray electrical currents, electromagnetic effects and the like from future railway operations. An updated Electrolysis Report is to be submitted to TfNSW demonstrating the Electrolysis Risk to the development. The applicant must incorporate in the development all the measures recommended in the report to control that risk. The updated report shall also include the correct levels of CBD Metro tunnels; and • Surveyor Verified Reserves Drawings: The distance from the project boundary to the tunnel needs be shown. The external tunnel diameter should include an additional thickness for tunnel lining. <ul style="list-style-type: none"> o Make allowances that are to be agreed with TfNSW in the design for the future construction of railway tunnels in the vicinity of the approved development; o Consult with TfNSW including preparation of a detailed regime for consultation with and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW; o Provide detailed survey information to TfNSW, to confirm the property boundaries are consistent with the setting out on the CBD Metro drawings; o Provide to TfNSW drawings, reports and other information related to the design, construction and maintenance of the approved development; and o Address such other matters that TfNSW considers is appropriate. <ul style="list-style-type: none"> • The applicant is to submit a report to TfNSW demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads -Interim Guideline". All structures must be designed, constructed and maintained so as to avoid any damage or other interference, which may occur as a result of air-borne noise, ground-borne noise and vibration that may emanate from the (future) rail corridor construction and rail operations to the proposed development. The applicant
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	<p>must incorporate in the development all the measures recommended in the report.</p> <p>Reason: To achieve compliance with conditions imposed by a concurrence body.</p>
<p>25.</p>	<p>Required Conditions from Transport for NSW (TfNSW) - Section 138 of the Roads Act 1993</p> <ol style="list-style-type: none"> 1. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth along the Victoria Road boundary. The proposed awning shall be setback a minimum distance of 0.6 metres from the face of kerb on Victoria Road to protect against the overhang of large vehicles. 2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon Victoria Road are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued. 3. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001. The developer is to submit all documentation prior to the issue of a Construction Certificate and at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au. If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work. 4. The development proposal involves excavation, construction, and operation of a mixed-use development that is in close proximity to the WestConnex (WCX) Rozelle Interchange Tunnel. Prior to the issue of a Construction Certificate and commencement of any construction works, the developer shall submit the Finite Element Analysis of the potential impacts of the pile and pile driving activities on WCX tunnel to TfNSW and WCX for review and approval, to ensure the development will not adversely impact the WCX tunnel, its infrastructure, and assets. The developer is to submit all documentation at least six (6) weeks prior to commencement of any construction works and is to meet the full cost of the assessment by TfNSW and WCX. Please send all documentation to development.sydney@transport.nsw.gov.au.

	<p>5. Any public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening/underboring to be submitted to TfNSW for review and acceptance prior to the issue of a Construction Certificate and the commencement of any works. The developer must also obtain any necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.</p> <p>6. The developer is required to enter a Works Authorisation Deed (WAD) with TfNSW, or other suitable arrangement as agreed to by TfNSW, for the works required by Conditions 2, 3, 4 and 5 that impact Victoria Road and WCX tunnel, its infrastructure, and assets.</p> <p>7. A Road Occupancy Licence (ROL) shall be obtained from the Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities. A ROL can be obtained through https://myrta.com/oplinc2/pages/security/oplincLogin.jsf.</p> <p>8. A Construction Pedestrian and Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to TfNSW at development.ctmp.cjp@transport.nsw.gov.au for review and endorsement, prior to the issue of any Construction Certificate or any preparatory, demolition or excavation works, whichever is earlier.</p> <p>9. For the life of the completed development no service vehicles (e.g. garbage trucks, vehicles delivering and/or collecting material from the development site, etc) are permitted to service the site directly from the Victoria Road frontage.</p> <p>Reason: To achieve compliance with conditions imposed by a concurrence body</p>
<p>26.</p>	<p>Required Advisory notes from Transport for NSW (TfNSW) - Section 138 of the Roads Act 1993</p> <p>1. The proposed development relies on the neighbouring Tigers Leagues Club development for vehicular access, waste collection and service vehicle deliveries, should the delivery vehicle be larger than a van or utility. Any proposed arrangement that relies on the neighbouring development should be adequately covered by supporting plans/documents and appropriate conditions (e.g. right of carriageways), to the satisfaction of Council.</p> <p>2. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths,</p>

	<p>and parking bay dimensions, height clearances, etc) should be in accordance with AS 2890.1-2004, AS 2890.2-2018 and AS 2890.6-2009.</p> <p>Reason: To achieve compliance with conditions imposed by a concurrence body</p>
<p>27.</p>	<p>Ausgrid conditions</p> <p><u>Ausgrid Underground Cables are in the vicinity of the development.</u></p> <p>Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Before You Dig Australia (BYDA) In addition to BYDA the proponent should refer to the following documents to support safety in design and construction: SafeWork Australia – Excavation Code of Practice. Ausgrid’s Network Standard NS156 which outlines the minimum requirements for working around Ausgrid’s underground cables. The following points should also be taken into consideration. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Should ground levels change above Ausgrid’s underground cables in areas such as footpaths and driveways, Ausgrid must be notified, and written approval provided prior to the works commencing. Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.</p> <p><u>Ausgrid Overhead Powerlines are in the vicinity of the development.</u></p> <p>The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site. The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au. It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.</p>

	<p><u>New Driveways - Proximity to Existing Poles</u></p> <p>Proposed driveways shall be located to maintain a minimum clearance of 1.5m from the nearest face of the pole to any part of the driveway, including the layback, this is to allow room for future pole replacements. Ausgrid should be further consulted for any deviation to this distance.</p> <p><u>New or modified connection</u></p> <p>To apply to connect or modify a connection for a residential or commercial premises. Ausgrid recommends the proponent to engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details; https://www.ausgrid.com.au/Connections/Get-connected Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries</p> <p>Reason: To achieve compliance with conditions imposed by a concurrence body</p>
28.	<p>Recommendations of the Geotechnical investigation report had carried out</p> <p>Prior to the issue of a Construction Certificate and Prior to the commencement of any work, the Certifying Authority must be provided with details of that all of the recommendations (including Further Geotechnical inputs) in the Geotechnical Investigation report (reference no. E26113.G03) prepared by EI Australia (dated 1 September 2023) had been carried out.</p> <p>The development must provide and maintain within the site:</p> <p>Reason: To ensure all the recommendations of the Geotechnical investigation report had carried out</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
29.	<p>Hazardous Materials Survey</p> <p>Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.</p>

	<p>A copy of any SafeWork NSW approval documents is to be included as part of the documentation.</p> <p>Reason: To ensure compliance with the requirements of SafeWork NSW.</p>
30.	<p>Noise General – Acoustic Report</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the Protection of the Environment Operations Act 1997 and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
31.	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
32.	<p>Bin Storage Area</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan.</p> <p>The submitted Waste and Recycling Management Plan must demonstrate that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, a weekly collection of organics which includes food and garden organics (FOGO), and a fortnightly collection of mixed recycling.</p> <p>The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
33.	<p>Bulky Waste Storage Area – Residential</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans showing a bulky waste storage area which meets the floor area requirements as per the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>

<p>34.</p>	<p>Waste Transfer Route</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins.</p> <p>If the path of transfer exceeds this gradient, a bin tug, suited to the inclination, and which meets Australian Standards in Health, Safety, Environment and Quality is to be used to move waste and recycling bins, or bulky household waste, from the basement to ground level.</p> <p>Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.</p>				
<p>35.</p>	<p>Dwelling Access to a Disposal Point for All Waste Streams</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point will be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste and recycling generated by that floor over a 24-hour period.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>				
<p>36.</p>	<p>Security Deposit - Custom</p> <p>Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.</p> <table border="1" data-bbox="437 1124 1197 1205"> <tr> <td>Security Deposit:</td> <td>\$74,555.04</td> </tr> <tr> <td>Inspection Fee:</td> <td>\$389.90</td> </tr> </table> <p>Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.</p> <p>The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.</p> <p>Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p>	Security Deposit:	\$74,555.04	Inspection Fee:	\$389.90
Security Deposit:	\$74,555.04				
Inspection Fee:	\$389.90				

	<p>A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.</p> <p>The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.</p> <p>Reason: To ensure required security deposits are paid.</p>
<p>37.</p>	<p>Dilapidation Report – Pre-Development – Minor</p> <p>Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.</p> <p>Reason: To ensure Council assets are protected.</p>
<p>38.</p>	<p>Stormwater Drainage System – Minor Developments (OSD is required)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:</p> <ol style="list-style-type: none"> 1. The stormwater drainage concept plan on Drawing Nos. STW-000 (Rev 2), STW-101 (Rev 3), STW-102 (Rev 2), STW-103 (Rev 2), STW-104 (Rev 2), STW-105 (Rev 2), STW-106 (Rev 2), STW-200 (Rev 2), STW-201 (Rev 2), STW-202 (Rev 1), STW-301 (Rev 3), STW-302 (Rev 2), STW-303 (Rev 1) and STW-304 (Rev 1) prepared by TORINEX CONSULTING ENGINEERS must be amended to comply with the following requirements: <ol style="list-style-type: none"> a. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines and be discharged by gravity directly to Council's piped drainage system via the OSD/OSR tanks as necessary. b. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP. c. Charged or pump-out stormwater drainage systems are not permitted including for roof drainage other than to drain downpipes to the rainwater tanks. d. The plans, including supporting calculations, must demonstrate that the post development flows for the 100 year ARI storm are restricted to the pre development flows for the 5 year ARI storm event in accordance with Section E1.2.3 (C2 and C3) of Council's DCP2013 and the maximum allowable discharge to Council's street gutter limited to 15 litres/second (100year ARI); e. OSD may be reduced or replaced by on site retention (OSR) for rainwater reuse in accordance with the relevant DCP that applies to the land. Where this is pursued, the proposed on-site retention (OSR) tanks must be connected to a pump system for internal reuse for laundry purposes, the flushing of all toilets and for outdoor usage such as irrigation. Surface water must not be drained to

	<p>rainwater tanks where the collected water is to be used to supply water inside the dwelling, such as for toilet flushing or laundry use.</p> <p>f. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks.</p> <p>g. Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided.</p> <p>h. As there is no overland flow/flood path available from the rear and central courtyards to the Victoria Road frontage, the design of the sag pit and piped drainage system is to meet the following criteria:</p> <ul style="list-style-type: none"> i. Capture and convey the 100 year Average Recurrence Interval flow from the contributing catchment assuming 80% blockage of the inlet and 50% blockage of the pipe. ii. The maximum water level over the sag pit shall not be less than 150mm below the floor level or damp course of the building iii. The design shall make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. <p>i. No nuisance or concentration of flows to other properties.</p> <p>j. All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.</p> <p>k. No impact to street tree(s).</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
<p>39.</p>	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ul style="list-style-type: none"> a. The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, etc. must be reconstructed and upgraded in accordance with the Public Domain Design Guide or scheme for the area; b. New and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer; c. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary. d. Connection of the stormwater outlet directly to Council's pipe drainage system via a kerb inlet pit.

	<p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards</p>
40.	<p>Structural and Geotechnical Report</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an integrated structural and geotechnical report and structural plans that address the design of the proposed basement, prepared certified as compliant with the terms of this condition by a qualified practicing Structural and Geotechnical Engineer(s) who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng). The report and plans must be prepared/ amended to make provision for the following:</p> <ol style="list-style-type: none"> a. The basement must be fully tanked to prevent the ingress of subsurface flows; b. Retaining walls must be entirely self-supporting in the event that excavation is undertaken within the road reserve adjacent to the property boundary to the depth of the proposed structure; c. Any existing or proposed retaining walls that provide support to the road reserve must be adequate to withstand the loadings that could be reasonably expected from within the constructed road and footpath area, including normal traffic and heavy construction and earth moving equipment, based on a design life of not less than 50 years; d. All components of the basement, including footings, must be located entirely within the property boundary; e. No adverse impact on surrounding properties including Council's footpath and road; f. The existing subsurface flow regime in the vicinity of the development must not be significantly altered as a result of the development; g. Recommendations regarding the method of excavation and construction, vibration emissions and identifying risks to existing structures or those on adjoining or nearby property; and h. Provide relevant geotechnical/ subsurface conditions of the site, as determined by a full geotechnical investigation. <p>Reason: To ensure that the design of the basement is structurally sound and has been appropriately certified.</p>
41.	<p>Parking Facilities - Domestic</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans and certification by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:</p> <ol style="list-style-type: none"> a. The parking spaces dimensions must comply with Section 2.4 of AS/NZS 2890.1-2004 with no encroachments within the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004; b. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the

	<p>lowest projection from the ceiling, such as lighting fixtures, and to open garage doors; and</p> <p>b. The maximum gradients within the parking module must not exceed 1 in 20 (5%), measured parallel to the angle of parking and 1 in 16 (6.25%), measured in any other direction in accordance with the requirements of Section 2.4.6 of AS/NZS 2890.1-2004 unless otherwise approved.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
42.	<p>Long Service Levy</p> <p>Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid at the prescribed rate of 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
43.	<p>Residential Flat Buildings – Adaptable Dwellings</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority, must be provided with plans that demonstrate at least 1 unit is an Adaptable unit.</p> <p>No works are to occur to the premises that would prevent the Adaptable units from being adapted for persons with a disability.</p> <p>Reason: To ensure adaptable units are designed in accordance with the relevant Australian Standard.</p>
44.	<p>Acoustic Report – Road Noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> and NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>
45.	<p>Fibre-ready Facilities</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that arrangements have been made for:</p> <p>The installation of fibre-ready facilities to all individual lots and/or premises the development so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.</p>

	<p>The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises the development demonstrated through an agreement with a carrier.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>														
<p>46.</p>	<p>Consolidation of Lots</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that the separate lots of 168 Victoria Road, 170 Victoria road, 172 Victoria Road and 17-19 Waterloo Street have been consolidated into one lot and under one title and registered at NSW Land Registry Services.</p> <p>If there are any changes to the number of occupancies including any additional occupancies created, a street numbering application must be lodged and approved by Council's GIS team before any street number is displayed. Link to Street Numbering Application.</p> <p>Reason: To ensure the proper disposition of land.</p>														
<p>47.</p>	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="435 969 1145 1272"> <thead> <tr> <th>Contribution Category</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td> <td>\$123,236.00</td> </tr> <tr> <td>Community Facilities</td> <td>\$23,854.00</td> </tr> <tr> <td>Transport</td> <td>\$2,553.00</td> </tr> <tr> <td>Plan Administration</td> <td>\$947.00</td> </tr> <tr> <td>Drainage</td> <td>\$5,109.00</td> </tr> <tr> <td>TOTAL</td> <td>\$155,700.00</td> </tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ <p>Where:</p> <p>C_{payment} = is the contribution at time of payment</p> <p>C_{consent} = is the contribution at the time of consent, as shown above</p> <p>CPI_{consent} = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.7 for the December 2024 quarter.</p>	Contribution Category	Amount	Open Space & Recreation	\$123,236.00	Community Facilities	\$23,854.00	Transport	\$2,553.00	Plan Administration	\$947.00	Drainage	\$5,109.00	TOTAL	\$155,700.00
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	<p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) if <u>the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>						
<p>48.</p>	<p>Housing and Productivity Contribution</p> <p>a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table border="1" data-bbox="491 1361 1110 1574"> <thead> <tr> <th>Housing and productivity contribution</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Housing and productivity contribution (base component)</td> <td>\$92855.81</td> </tr> <tr> <td>Total housing and productivity contribution</td> <td>\$92855.81</td> </tr> </tbody> </table>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$92855.81	Total housing and productivity contribution	\$92855.81
Housing and productivity contribution	Amount						
Housing and productivity contribution (base component)	\$92855.81						
Total housing and productivity contribution	\$92855.81						

b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:

Highest PPI number
Consent PPI number

Where:

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and

consent PPI number is the PPI number last used to adjust HPC rates when consent was granted, and

June quarter 2023 and *PPI* have the meanings given in clause 22 (4) of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:

Development	Time by which HPC must be paid
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate
Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home

In the Table, *HPC Order* means the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

	<p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> a. the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, b. the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>
<p>49.</p>	<p>Enclosure of Fire Hydrant</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed by a suitably designed accessible screen and in accordance with the requirements of AS 2419.1 2005.</p> <p>Reason: To protect the streetscape.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
50.	<p>Tree Protection</p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>Reason: To ensure that trees to be retained are protected.</p>
51.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
52.	<p>Construction Traffic Management Plan – Detailed</p> <p>Prior to any building work, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads (via the most suitable direct route) to the maximum extent possible.</p> <p>The following matters should be addressed in the CTMP (where applicable):</p> <ol style="list-style-type: none"> a. Description of the demolition, excavation and construction works; b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements; c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site); d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;

	<ul style="list-style-type: none"> e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways; f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.); g. Proposed hours of construction related activities and vehicular movements to and from the site; h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority); i. Any activities proposed to be located or impact upon Council's road, footways or any public place; j. Measures to maintain public safety and convenience; k. Any proposed road and/or footpath closures; l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site; m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council; n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road); o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries; p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; q. On-site parking area for employees, tradespersons and construction vehicles as far as possible; r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways. t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance. <p>If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note.</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
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<p>53.</p>	<p>Waste Management Plan</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
<p>54.</p>	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
<p>55.</p>	<p>Verification of Levels and Location</p> <p>Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.</p> <p>Reason: To ensure works are in accordance with the consent.</p>
<p>56.</p>	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties at 21 Waterloo Street, 23 Waterloo Street and 174 Victoria Road to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>
<p>57.</p>	<p>Construction Fencing</p> <p>Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

Condition	
58.	<p>Contamination – New Evidence</p> <p>Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination.</p>
59.	<p>Imported Fill Materials</p> <p>All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.</p> <p>All fill imported onto the site shall be validated by either one or both of the following methods:</p> <p>Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or</p> <p>Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).</p> <p>Reason: To protect the amenity of the neighbourhood from contamination.</p>
60.	<p>Tree Protection</p> <p>No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent. Prescribed trees protected by Council's Tree Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent. Any public tree within 5 metres of the development must be protected in accordance with AS4970—<i>Protection of trees on development sites</i> and Council's Development Fact Sheet—<i>Trees on Development Sites</i>. No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.</p> <p>Reason: To ensure that trees to be retained are protected.</p>
61.	<p>Arborists standards</p> <p>All tree work must be undertaken by a person holding a minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, Arborist. The work must be undertaken in accordance with AS4373—<i>Pruning of amenity trees</i> and the Safe Work Australia Code of Practice—<i>Guide to Managing Risks of Tree Trimming and Removal Work</i>. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved network service provider contractor for the management of vegetation</p>

	<p>conflicting with such services. Contact the relevant network service provider for further advice in this regard.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
62.	<p>Works to Trees</p> <p>Approval is given for the following tree/s to be removed, after the issue of a Construction Certificate:</p> <p>Tree 1 - <i>Archontophoenix cunninghamiana</i> (Bangalow Palm) Tree 2 - <i>Flindersia australis</i> (Crow's Ash) Tree 3, 4 - <i>Celtis sp.</i> (Hackberry) Tree 5,6 - <i>Murraya paniculata</i> (Orange Jessamine)</p> <p>All tree works shall be undertaken by an arborist with minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, as defined by the Australian Qualification Framework and in compliance with Australian Standard AS 4373—<i>Pruning of amenity trees</i> and Safe Work Australia's Guide to Managing Risks of Tree Trimming and Removal Work.</p> <p>Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) shall be undertaken by an approved network service provider contractor for the management of vegetation conflicting with such services. Contact the relevant network service provider for further advice in this regard.</p> <p>The trees to be removed must be included on all Construction Certificate plans shown in red.</p> <p>NOTE: Reference should be made to the Arboricultural Impact Assessment Report prepared by Redgum Horticultural dated 4 September 2024 for tree numbering and locations.</p> <p>Reason: To identify trees permitted to be removed.</p>
63.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
64.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p>

	<p>Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc. and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.</p> <p>In the case that a standing plant or special out of hours permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.</p> <p>This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.</p> <p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works. "Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
65.	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
66.	<p>Contamination – Disposal of Soil</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the Protection of the Environmental Operations Act 1997.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
67.	<p>Noise- Compliance</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:</p> <ul style="list-style-type: none"> A. <i>State Environmental Planning Policy (Transport and Infrastructure) 2021;</i> B. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;

	<p>C. conditions of development consent; and D. Recommendations</p> <p>Reason: To ensure adequate amenity for occupants</p>
68.	<p>Contamination – Validation (No Site Audit Statement Required)</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.</p> <p>The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines Consultants Reporting on Contaminated Sites and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.</p> <p>Reason: To protect the amenity of the neighbourhood from contamination.</p>
69.	<p>Notice to Council to deliver Residential Bins</p> <p>Council is to be notified of bin requirements three weeks prior to the occupation of the building to ensure timely delivery.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
70.	<p>Certification of Tree Planting</p> <p>Prior to the issue of any Occupation Certificate a Final Landscape Inspection must be carried out and a certificate issued by Council's Tree Assessment Officer. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with the conditions of this consent. To arrange a Final Landscape Inspection please phone 9392-5000 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.</p> <p>Note - Landscaping and tree planting must be in accordance with the Landscape Plans prepared by TWLA dated 22/10/24.</p> <p>The trees must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted as suitable.</p> <p>Trees required by this condition must be maintained and protected until they are protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.</p> <p>Reason: To ensure appropriate landscaping is undertaken.</p>

71.	<p>Public Domain Works</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the Roads Act 1993 including:</p> <ul style="list-style-type: none"> a. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone; b. The existing concrete footpath across the frontage of the site must be reconstructed in accordance with the public domain approval; and c. Other works subject to the Roads Act 1993 approval. <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
72.	<p>No Encroachments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
73.	<p>Works as Executed – Site Stormwater Drainage System</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that:</p> <p>The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and</p> <p>Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD/OSR system commissioned and stormwater quality improvement device(s) and any pump(s) installed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.</p> <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>

<p>74.</p>	<p>Operation and Management Plan</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:</p> <ul style="list-style-type: none"> a. The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners; and b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc. <p>Reason: To ensure the approved works are undertaken in accordance with the consent.</p>
<p>75.</p>	<p>Undergrounding Power – Major development</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the existing overhead power cables along Victoria Road frontage of the site have been relocated underground with appropriate street lighting and new steel standard poles. The street lighting must be designed in accordance with Australian Standard AS1158-Road Lighting and the Network Standards of Ausgrid and must meet the lighting category required by Council and RMS. In addition the design must also comply with AS4282 to ensure that no injury is caused to the amenity of the surrounding area by light overspill or obtrusive light.</p> <p>Reason: To ensure Council assets are protected, and that lighting is provided in accordance with the relevant standards.</p>
<p>76.</p>	<p>Parking Signoff – Major Development</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.</p> <p>The car park has been completed, line marked and all signage relating to car parking erected;</p> <p>A notice has been clearly displayed at the Victoria Road frontage to indicate that visitor parking is available within the property with access from Waterloo Street;</p> <p>Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles both on and off the property which driveway they are to use to enter or leave the subject land;</p> <p>Sign(s) have been erected that clearly indicate to the drivers of vehicles both on and off the property the location and means of access to the car parking area(s).</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>

77.	<p>Public Domain - Major Developments</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.</p> <p>Reason: To confirm the public domain works once constructed are in accordance with the consent and the approved plans.</p>
78.	<p>Dilapidation Report – Post-Development</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey, structural condition and CCTV inspections which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.</p> <p>Reason: To ensure Council assets are protected.</p>
79.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>
80.	<p>Easements, Restrictions on the Use of Land and Positive Covenants</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the Conveyancing Act 1919, has been created on the title of the property detailing the following:</p> <ul style="list-style-type: none"> a. Easement vehicle access over the property 138-152 Victoria Road, 154-156 Victoria Road, 697-699 Darling Street & 1-7 Waterloo Street, ROZELLE (the Tigers Site); b. Easement for pedestrian access and transfer of waste over 138-152 Victoria Road, 154-156 Victoria Road, 697-699 Darling Street & 1-7 Waterloo Street, ROZELLE (the Tigers Site); c. Restrictions on the Use of Land related to on Site Stormwater Detention System or stormwater quality improvement devices; d. Positive Covenant related to on-site stormwater detention and/or retention system; e. Positive Covenant related to stormwater quality improvement devices; and <p>The wording in the Instrument must be in accordance with Councils Standard wording.</p> <p>Reason: To ensure that the relevant easements are registered on the property.</p>

81.	<p>Easement and Covenant Process</p> <p>Prior to the issuing of an Occupation Certificate, the following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):</p> <ol style="list-style-type: none"> a. Work-As-Executed Plans <p>A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.</p> b. Engineer's Certificate <p>A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:</p> <ol style="list-style-type: none"> a. The soundness of the storage structure; b. The capacity of the detention storage; c. The emergency overflow system being in place; d. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code; e. The freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code; f. Basement car park pumps are class one zone two; and g. OSR pumps and SQIDS have been installed and commissioned. c. Restriction-As-To-User <p>A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.</p> <p>Such restrictions must not be released, varied or modified without the consent of the Council.</p> <p>A typical document is available from Council's Development Assessment Engineer.</p>
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	<p>d. A Maintenance Schedule.</p> <p>Reason: To ensure easements are registered and the correct documentation is provided.</p>
82.	<p>Resident Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Resident Parking Scheme.</p>
83.	<p>Proposed parking and proposed waste facilities relies on an easement through the Balmain Leagues Club site for access</p> <p>As both the parking and waste facilities relies on an easement through the Balmain Leagues Club site for access (which is part of D/2018/219), prior to an Occupation Certificate to be issued, the Principal Certifying Authority is to be provided with evidence that the development at the Balmain Leagues Club site (i.e. D/2018/219) is constructed to the point where an principle certifier authority had issued at least a Part Occupation Certificate for the Balmain League Club site to allow safe access for the parking and waste purposes of 168-172 Victoria Road and 17-19 Waterloo Street.</p> <p>Reason: To ensure access for parking and waste purposes can be safely undertaken.</p>

OCCUPATION AND ONGOING USE

	Condition
84.	<p>Noise General</p> <p>The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
85.	<p>Tree Establishment</p> <p>If any of the trees planted as a part of this consent are found dead or dying before they reach dimensions where they are subject to the Tree Management Development Control Plan (DCP) they must be replaced in accordance with the relevant conditions.</p> <p>Reason: To protect and retain trees.</p>

86.	<p>Operation and Management Plan</p> <p>The Operation and Management Plan for the on-site detention and/or on-site retention/re-use and/or stormwater quality improvement devices, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.</p> <p>Reason: To ensure that the adequate provision of stormwater drainage is provided.</p>
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DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

	Condition
87.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
88.	<p>Construction Traffic Management Plan – Detailed</p> <p>Prior to any building work, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads (via the most suitable direct route) to the maximum extent possible.</p> <p>The following matters should be addressed in the CTMP (where applicable):</p> <ol style="list-style-type: none"> a. Description of the demolition, excavation and construction works; b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements; c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site); d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network; e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;

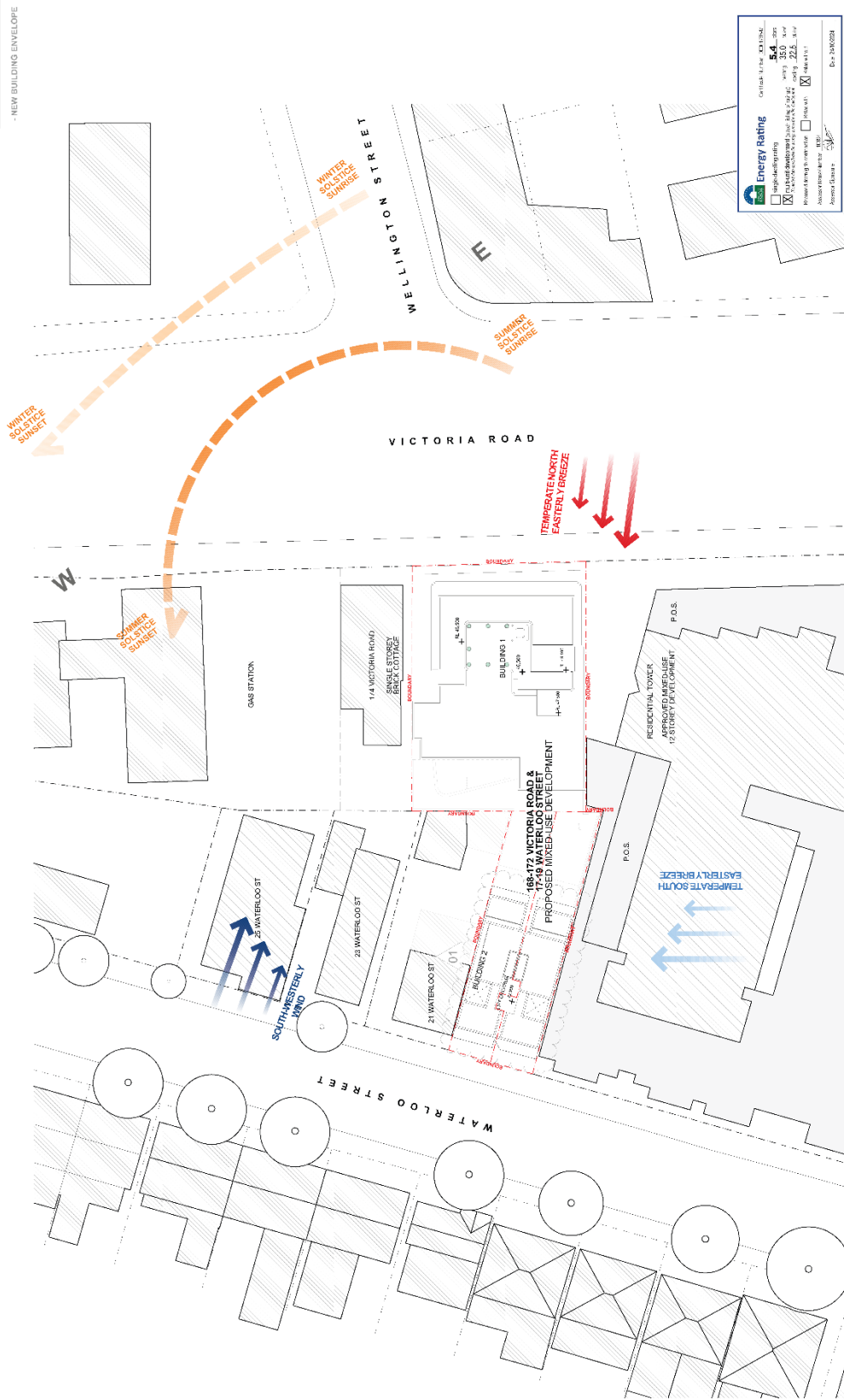
	<p>f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);</p> <p>g. Proposed hours of construction related activities and vehicular movements to and from the site;</p> <p>h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);</p> <p>i. Any activities proposed to be located or impact upon Council's road, footways or any public place;</p> <p>j. Measures to maintain public safety and convenience;</p> <p>k. Any proposed road and/or footpath closures;</p> <p>l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;</p> <p>m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;</p> <p>n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);</p> <p>o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;</p> <p>p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;</p> <p>q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;</p> <p>r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and</p> <p>s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.</p> <p>t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.</p> <p>If in the opinion of Council, TfNSW or the NSW Police the works results in unforeseen traffic congestion or unsafe work conditions the site may be shut down and alternative Traffic Control arrangements shall be implemented to remedy the situation. In this regard you shall obey any lawful direction from the NSW Police or a Council officer if so required. Any approved CTMP must include this as a note.</p> <p>Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
--	---

SUBDIVISION WORK

BEFORE ISSUE OF A STRATA SUBDIVISION CERTIFICATE

Condition	
89.	<p>Section 73 Certificate</p> <p>Prior to the issue of a Subdivision Certificate, the Certifying Authority must be provided with the Section 73 Certificate. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.</p> <p>Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
90.	<p>Release of Subdivision Certificate</p> <p>Prior to the release of a Strata Subdivision Certificate, the Certifying Authority must be provided with a copy of the Final Occupation Certificate.</p> <p>Reason: To ensure development is completed before the subdivision certificate is released.</p>

Attachment B – Plans of proposed development



ESTIMATE		
Project No.	22088	
Drawing No.	DA100	
Revision	03	
DATE: 10/01/2025		
Client	PACIFIC INVESTMENT PTY LTD	
Design Title	SITE PLAN & ANALYSIS PLAN	
Drawn	CG AV	
Checked	LY	
Approved	SRH	
Scale	AS PER PLAN	
North	1200	
Project	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE	
Rev	Date	Description
01	10/01/2025	ISSUED FOR CONSTRUCTION
02	24/02/2025	ISSUED FOR CONSTRUCTION
03	10/01/2025	ISSUED FOR CONSTRUCTION
DEVELOPMENT APPLICATION		

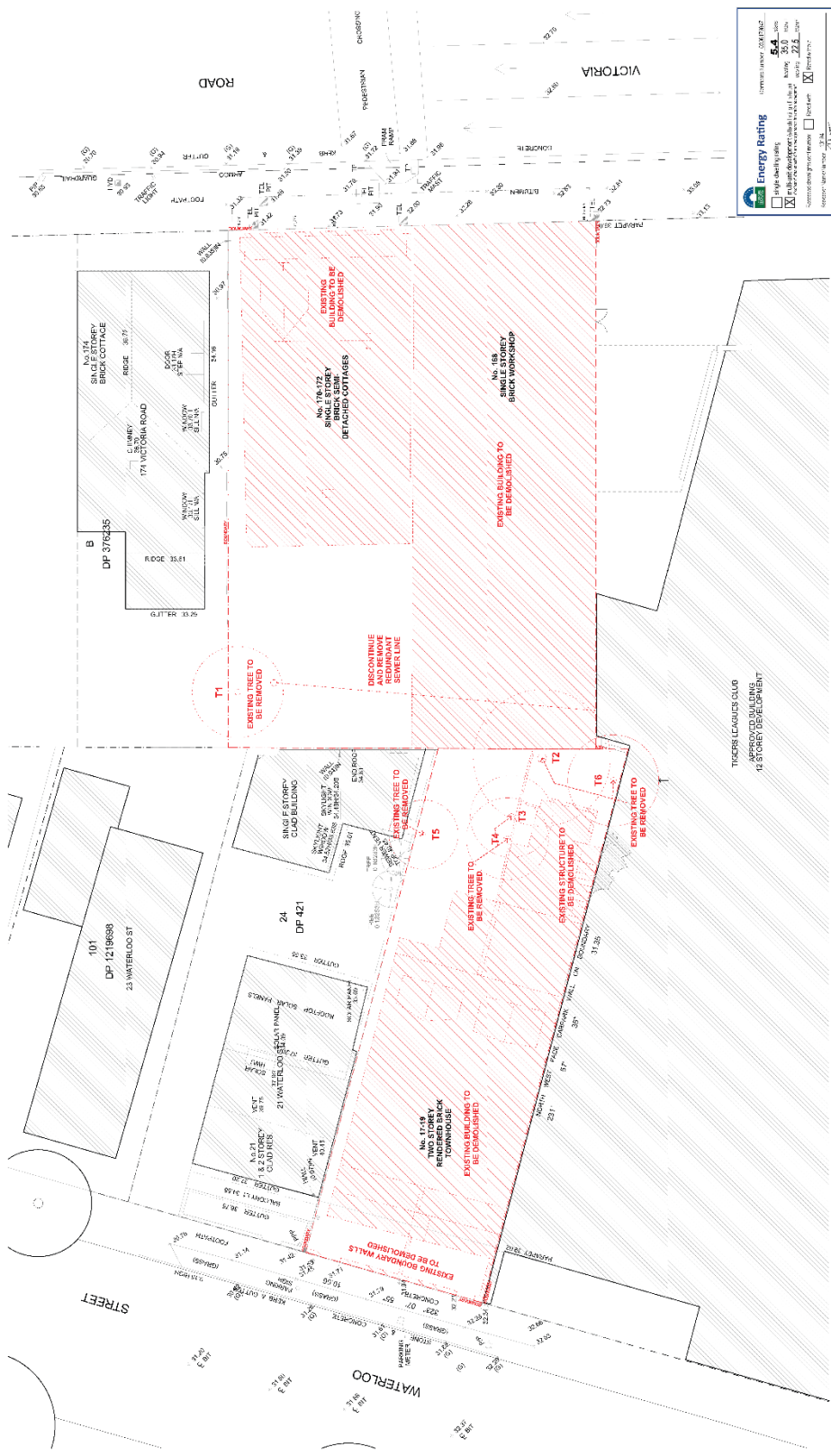
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Energy Rating

Current Energy Rating: **3.5**

Target Energy Rating: **3.5**

Minimum Energy Rating: **2.5**

Maximum Energy Rating: **4.0**

Energy Rating Improvement: Better

Energy Rating Reduction: Worse

Energy Rating Exemption: Exempt

Energy Rating Exemption Reason: **None**

Project No.	22088
Demolition No.	DA101
Demolition Date	10/01/2025
Demolition Status	03

Demolition Plan	1100
Demolition Date	10/01/2025
Demolition Status	03

Project	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE
Demolition No.	DA101
Demolition Date	10/01/2025
Demolition Status	03

Rev.	Date	Description
01	10/01/2024	DATE SUBMITTED
02	14/03/2024	REVISIONS
03	10/01/2025	FINAL APPROVAL OF LG

North	Scale: 1:100
Project	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE
Demolition No.	DA101
Demolition Date	10/01/2025
Demolition Status	03

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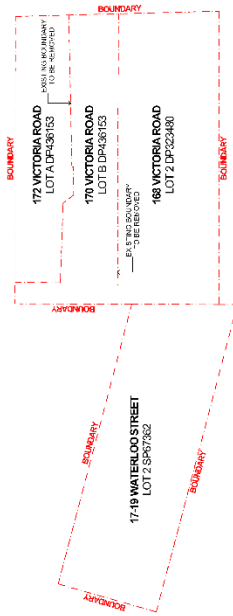
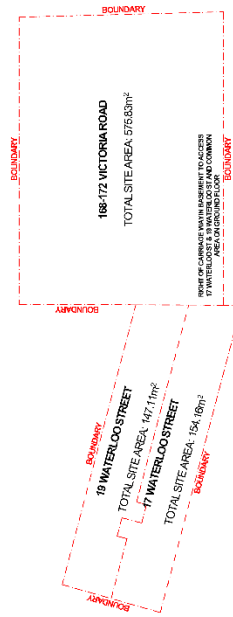
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SRHA

SRHA is a registered provider of demolition services. It is a not-for-profit organisation that provides demolition services to the community. SRHA is a member of the Australian Demolition Association (ADA).

DEMOLITION PLAN

168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE



MAP 168-172 VICTORIA ROAD PRELIMINARY

MAP 172-178 VICTORIA ROAD PRELIMINARY

Energy Rating COMPLYING WITH BUILDING REGULATIONS

High energy rating
 Low energy rating
 No energy rating

System energy performance: Better than average Better than most

System name: _____
 Name of signifier: _____
 No. of plates: _____

Rev	Date	Description
01	10/11/2023	DATE SUBMITTED
02	24/10/2024	REVISED FOR COUNCIL PERIOD
03	10/01/2025	FINAL FOR COUNCIL PERIOD

Project: 168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE

Client: PACIFIC INVESTMENT LTD

Project No: 22088

Drawing No: DA102

Drawn: CG AV

Checked: LY

Approved: SRH

Date: 10/01/2025

Scale: 6:1 (A4) USE 4:1

North: [North Arrow]

Sheet No: 1200

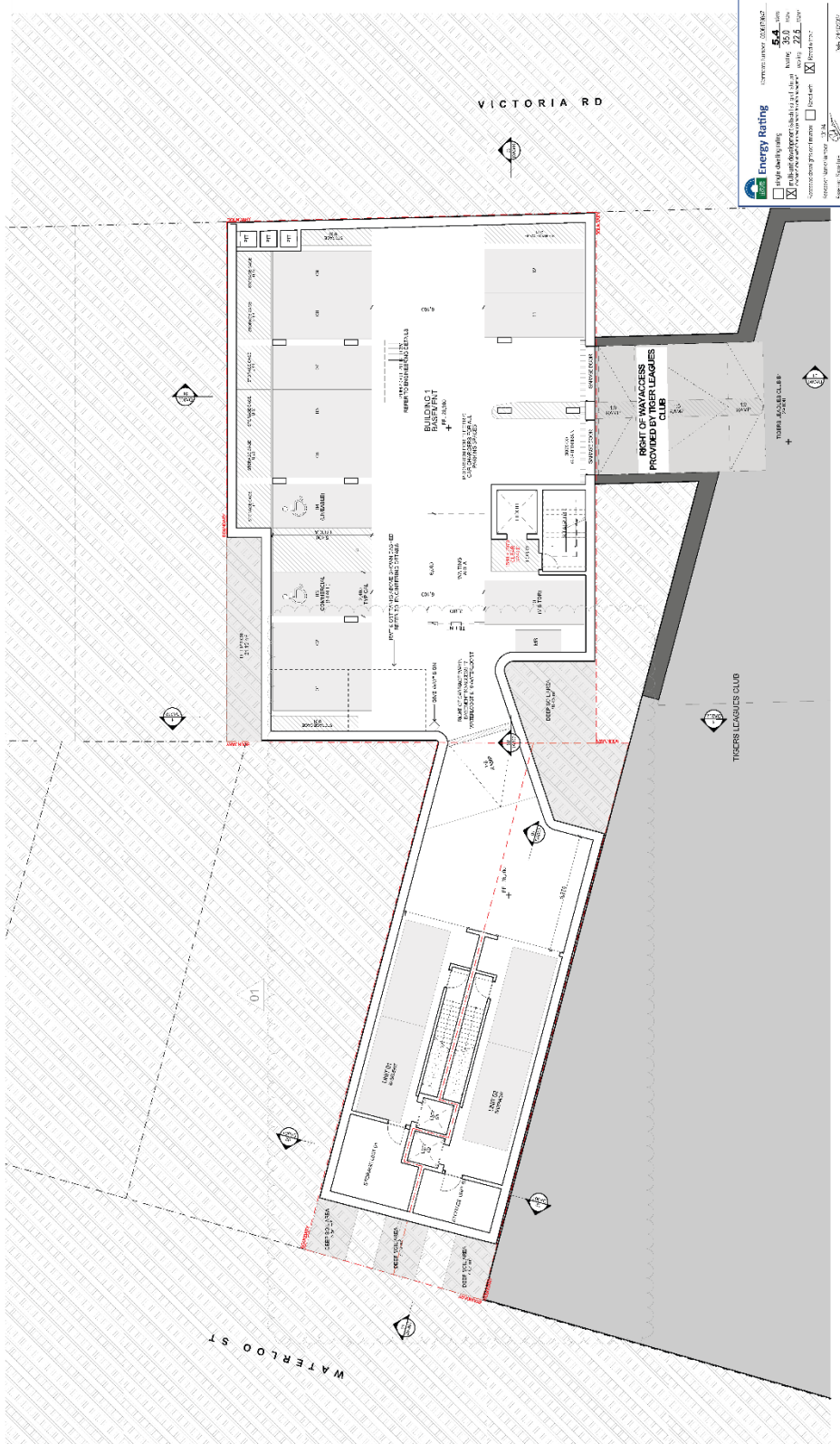


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- BUILDING 2 DESIGN AMENDMENT, TERRACE HOUSES
 - BASEMENT CARPARK RECONFIGURATION TO
 ENHANCE CONCRETE FINISHES
 - INCREASED DEEP SOLAR AREA



Energy Rating

Current Energy Rating: **3.5** (Star) 3.5
 Target Energy Rating: **3.5** (Star) 3.5
 Minimum Energy Rating: **2.5** (Star) 2.5
 Maximum Energy Rating: **4.5** (Star) 4.5

Approved by: **[Signature]** Date: **23/04/2023**

Project No.	22088
Drawing No.	DA103
Client	PACIFIC INVESTMENT PTY LTD
Issue	10/01/2025
Drawn	CG AV
Checked	LY
Approved	SRH

Project:	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE	
Rev.	Date	Description
01	10/01/2025	DATE SUBMITTED
02	24/03/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL DEVELOPMENT APPLICATION

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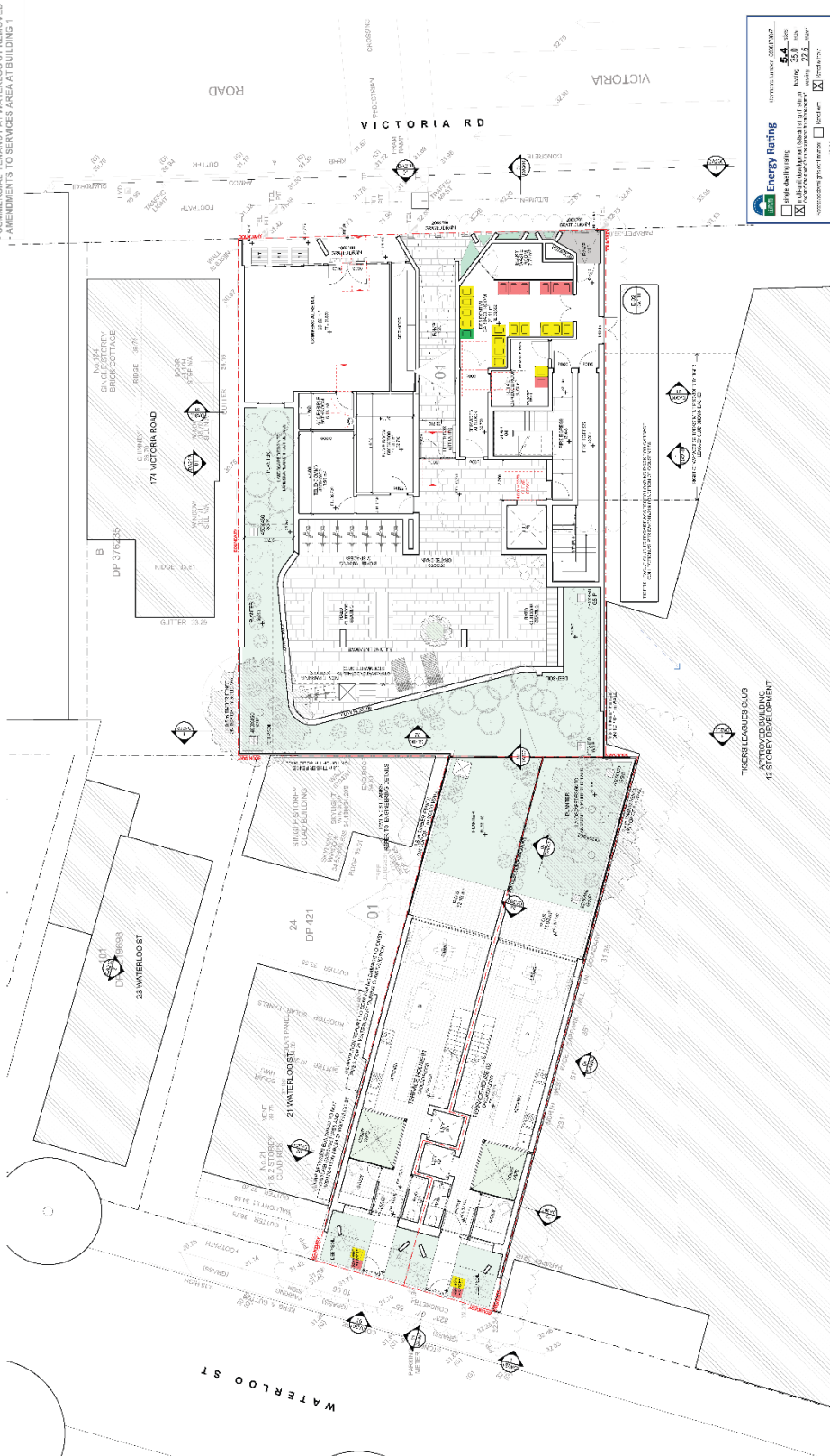
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DATE: 10/01/2025
 TIME: 10:00 AM
 PROJECT: 168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE

- BUILDING 2 DESIGN AMENDMENT: TERRACE HOUSES
- THROUGH-SITE LINK REMOVED
- TERRACE HOUSES AT WATERLOO ST REMOVED
- AMENDMENTS TO SERVICES NEAR BUILDING 1



Green Energy Rating

Current Rating: **GREEN***

Highly desirable 3.5 Stars

Desirable 3 Stars

Acceptable 2.5 Stars

Acceptable 2 Stars

Acceptable 1.5 Stars

Acceptable 1 Star

Acceptable 0.5 Star

Name of Signatory: _____

Date: _____

Rev.	Date	Description
01	10/01/2023	DATE SUBMITTED
02	24/03/2024	RECEIVED BY COUNCIL FOR EQ
03	10/01/2025	ISSUE FOR COUNCIL EQ

Project:		Ground Floor Plan	
168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE		22088	
Name:		Client:	10/01/2025
DEVELOPMENT APPLICATION		PACIFIC INVESTMENT PTY LTD	03

Scale: 1:1100	Scale: 643 (A4) 1:320 @ A3
North	North

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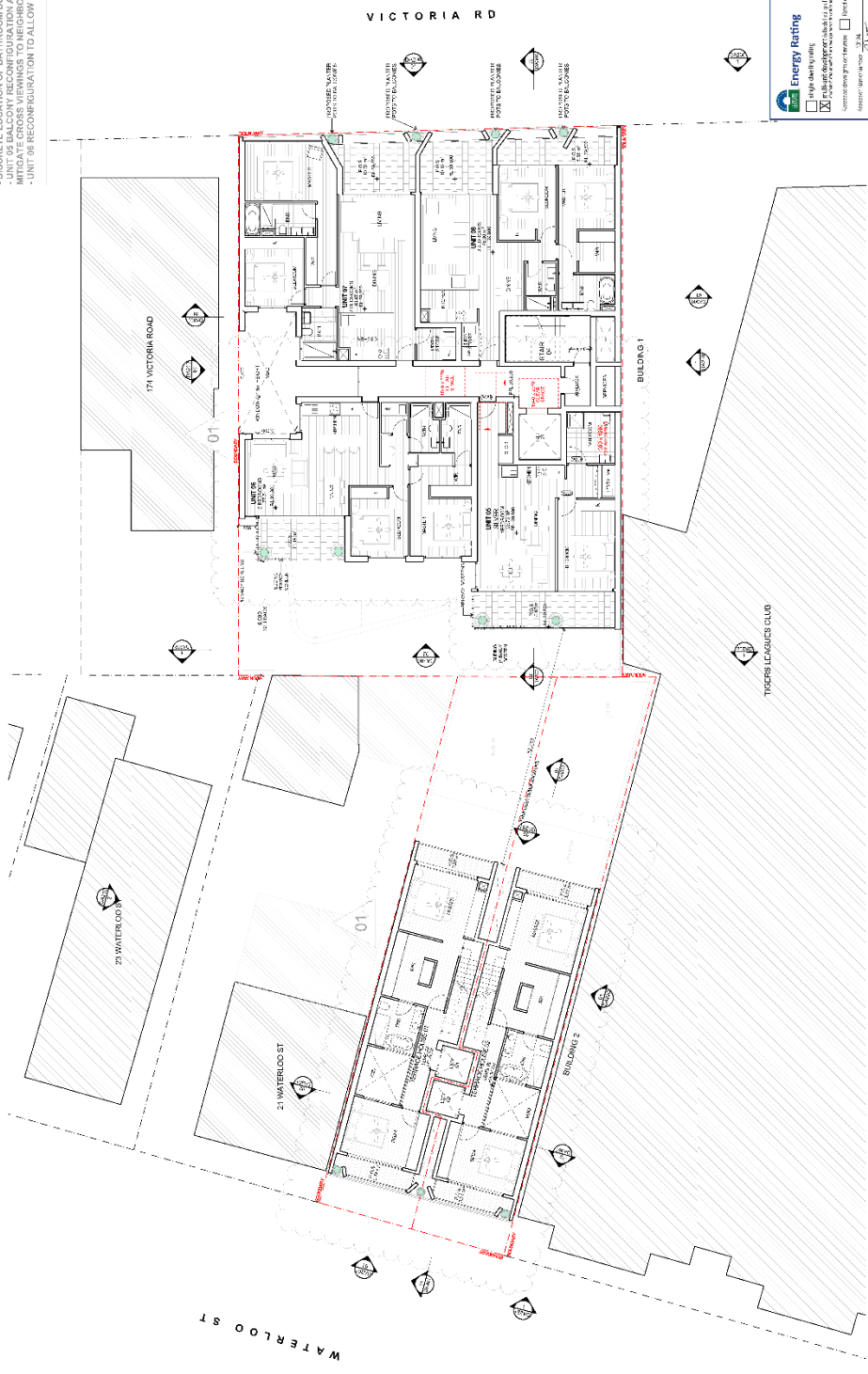
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- BUILDING 2 DESIGN AMENDMENT, TERRACE HOUSES
- NATURAL LIGHT AND VENTILATION IN COMMON CORRIDORS OF BUILDING 2
- DISCRETE LOCATION OF BATHROOM DOORS
- UNIT 65 BALCONY RECONFIGURATION AND PRIVACY SCREENS TO MITIGATE CROSS VIEWS TO NEIGHBOURS
- UNIT 66 RECONFIGURATION TO ALLOW SOLAR ACCESS



Energy Rating

Compliance with **AS/NZS 3845** (2016)

Single dwelling rating: **3.5** stars

Multi-dwelling rating: **2.5** stars

Approved by: (check)

Approved date: 22/04/2024

Approved by: (check)

Approved date: 22/04/2024

Approved by: (check)

Approved date: 22/04/2024

Rev	Date	Description
01	10/01/2024	DATE SUBMITTED
02	24/03/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL APPROVAL FOR CG

Project No.	220888
Design No.	DA106
Client	PACIFIC INVESTMENT LTD
Design/Drawn	CG AV
Checked	LY
Approved	SRH
Date	10/01/2025
Scale	AS PER PLAN (SEE P 28)
Sheet No.	1100

Project: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**

Work: **DEVELOPMENT APPLICATION**

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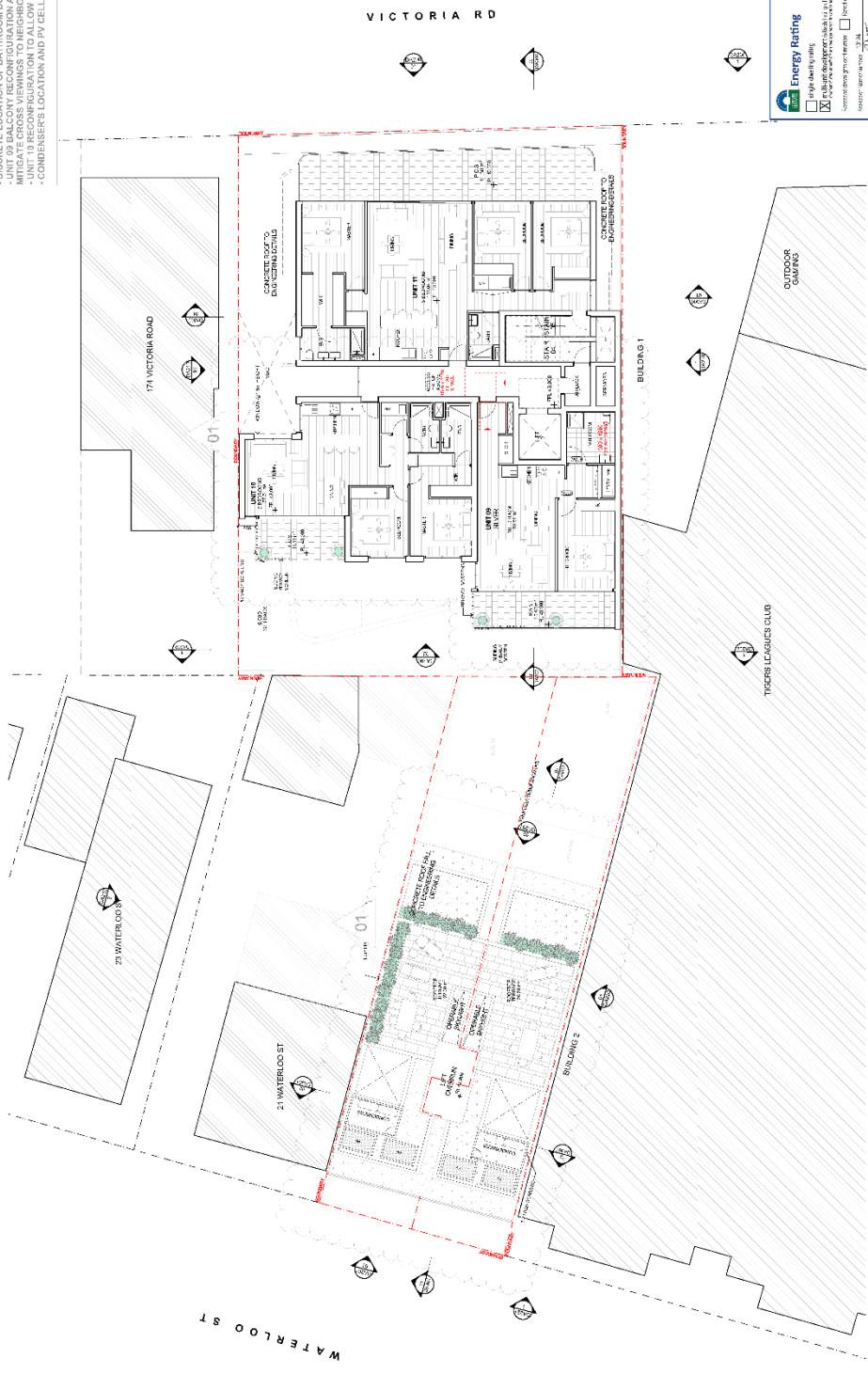
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- BUILDING 2 DESIGN AMENDMENT, TERRACE HOUSES
- NATURAL LIGHT AND VENTILATION IN COMMON CORRIDORS OF BUILDING 2
- DISCRETE LOCATION OF BATHROOM DOORS
- DISCRETE LOCATION OF BALCONY DOORS
- UNIT 09 BALCONY RECONFIGURATION AND PRIVACY SCREENS TO MITIGATE CROSS VIEWINGS TO NEIGHBOURS
- ACCESS TO TERRACE HOUSES
- CONDENSERS LOCATION AND PV CELLS FOR TERRACE HOUSES



Green Star Energy Rating

Compliance with Green Star Energy Rating is required for all new buildings.

Highly energy efficient: 5.5 stars
 Energy efficient: 4.5 stars
 Moderate energy efficiency: 3.5 stars
 Average energy efficiency: 2.5 stars
 Poor energy efficiency: 1.5 stars
 Non-compliant: 1 star

Approved: Not approved: Not applicable: Not relevant:

Name of Signatory: _____ No. of Pages: _____

Rev	Date	Description
01	10/01/2024	DATE SUBMITTED
02	24/03/2024	RECEIVED BY COUNCIL FOR INFO
03	10/01/2025	LOCAL COUNCIL FOR INFO

Project No.	22088
Design No.	DA107
Client	PACIFIC INVESTMENT PTY LTD
Design/Drawn	CG AV
Checked	LY
Approved	SRH
Date	10/01/2025

Scale	AS1:641 (A4) USE 4: 1:20
North	
Block	1100
Section	DEVELOPMENT APPLICATION

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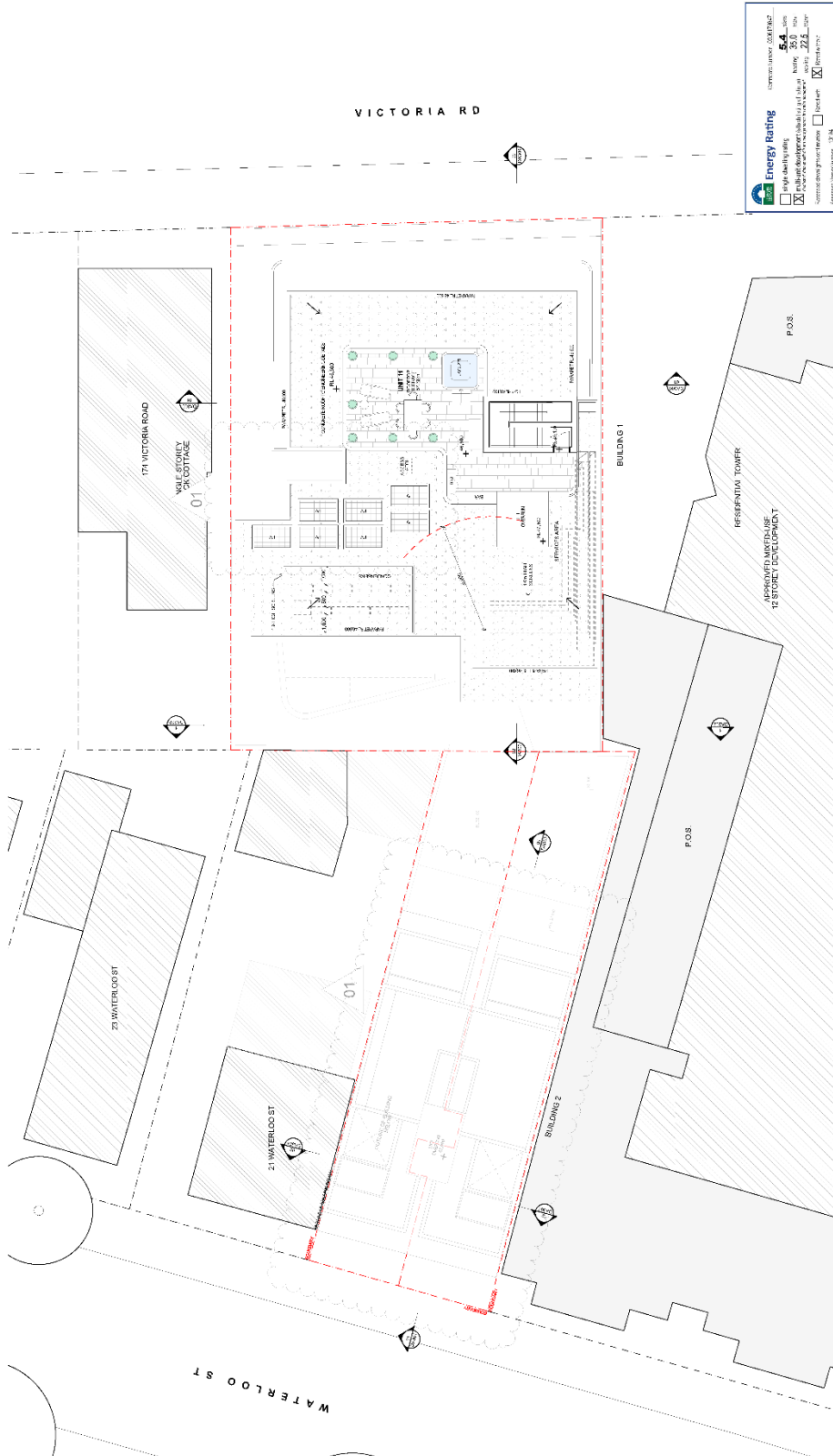
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SRH ARCHITECTS PTY LTD
 100 GEORGE STREET, SYDNEY NSW 2000
 PHONE: (02) 9231 1111
 EMAIL: INFO@SRH.COM.AU
 WEBSITE: WWW.SRH.COM.AU

- BUILDING 2 DESIGN AMENDMENT: TERRACE HOUSES
- PV CELLS LOCATED ON BUILDING 1



Green Energy Rating

Green Star Rating: **6** (Green Star 6)

Highly energy efficient: (Green Star 6)

Energy efficient: (Green Star 5)

Standard energy efficiency: (Green Star 4)

Minimum energy efficiency: (Green Star 3)

Approved under the **Green Star** scheme.

Name: **Shirley** No. **22088**

Project No.	22088
Design No.	DA108
Design Title	ROOF FLOOR PLAN
Client	PACIFIC INVESTMENT LTD
Date	10/01/2025
Scale	1:1100



Rev.	Date	Description
01	10/01/2024	DATE SUBMITTED
02	24/03/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL FOR COUNCIL PERIOD

Project: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**

Name: **DEVELOPMENT APPLICATION**

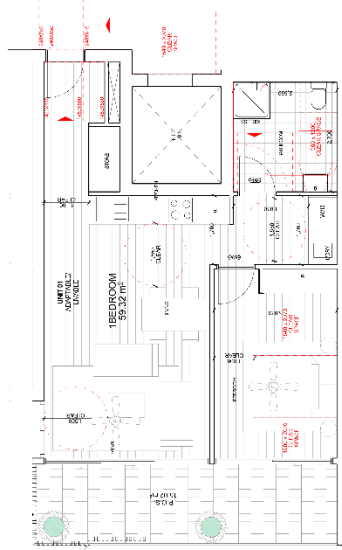
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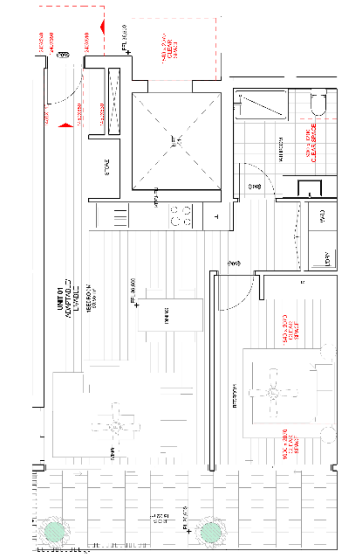
Scale
Scale: 1:1100

SHAR

Shirley Architects Pty Ltd
17/19 Waterloo Street, Rozelle NSW 1585
Tel: (02) 9550 1111
www.shirleyarchitects.com.au



ADAPTABLE UNIT LAYOUT 186



ADAPTABLE UNIT LAYOUT 185

Energy Rating COMPLYING WITH CERTIFIED

Single dwelling units
 Multi-dwelling units
 Public buildings
 Non-residential buildings

System name: **186**
 System version: **2.0**
 Name of signatory: **M. R. J. JONES**

Rev.	Date	Description
01	10/11/2023	DATE SUBMITTED
02	24/10/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL APPROVAL FOR CG

Project No.	22088
Drawing No.	DA109
Client	PACIFIC INVESTMENT LTD
Contract	150
Scale	AS SHOWN
Drawn	CG AV
Checked	LY
Approved	SRH
Date	10/01/2025

Project:	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE
Name:	DEVELOPMENT APPLICATION

SRH

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 Level 11, 100 George Street, Sydney NSW 2000
 Australia
 Phone: +61 (0)2 9230 9000
 Email: info@srh.com.au

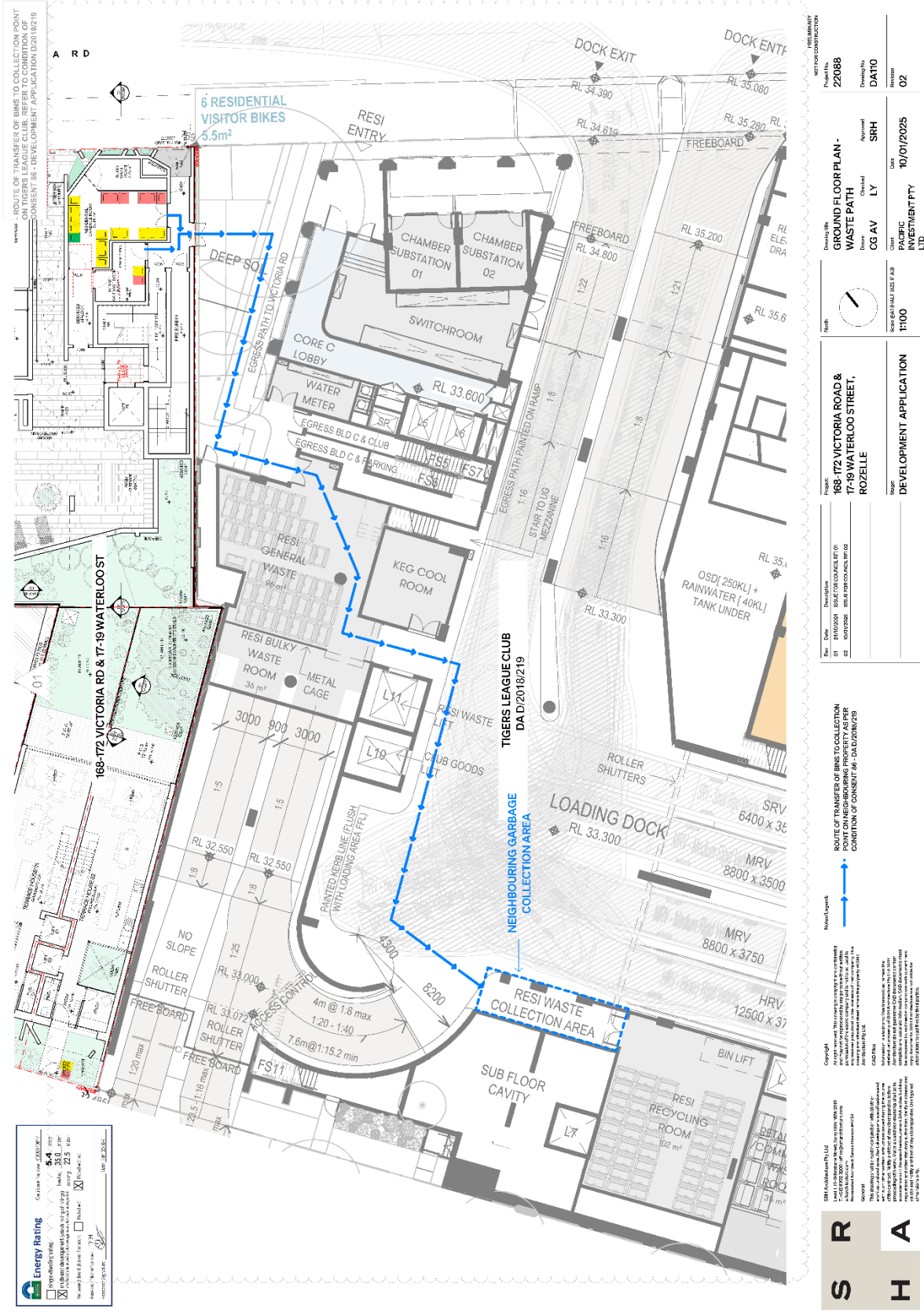
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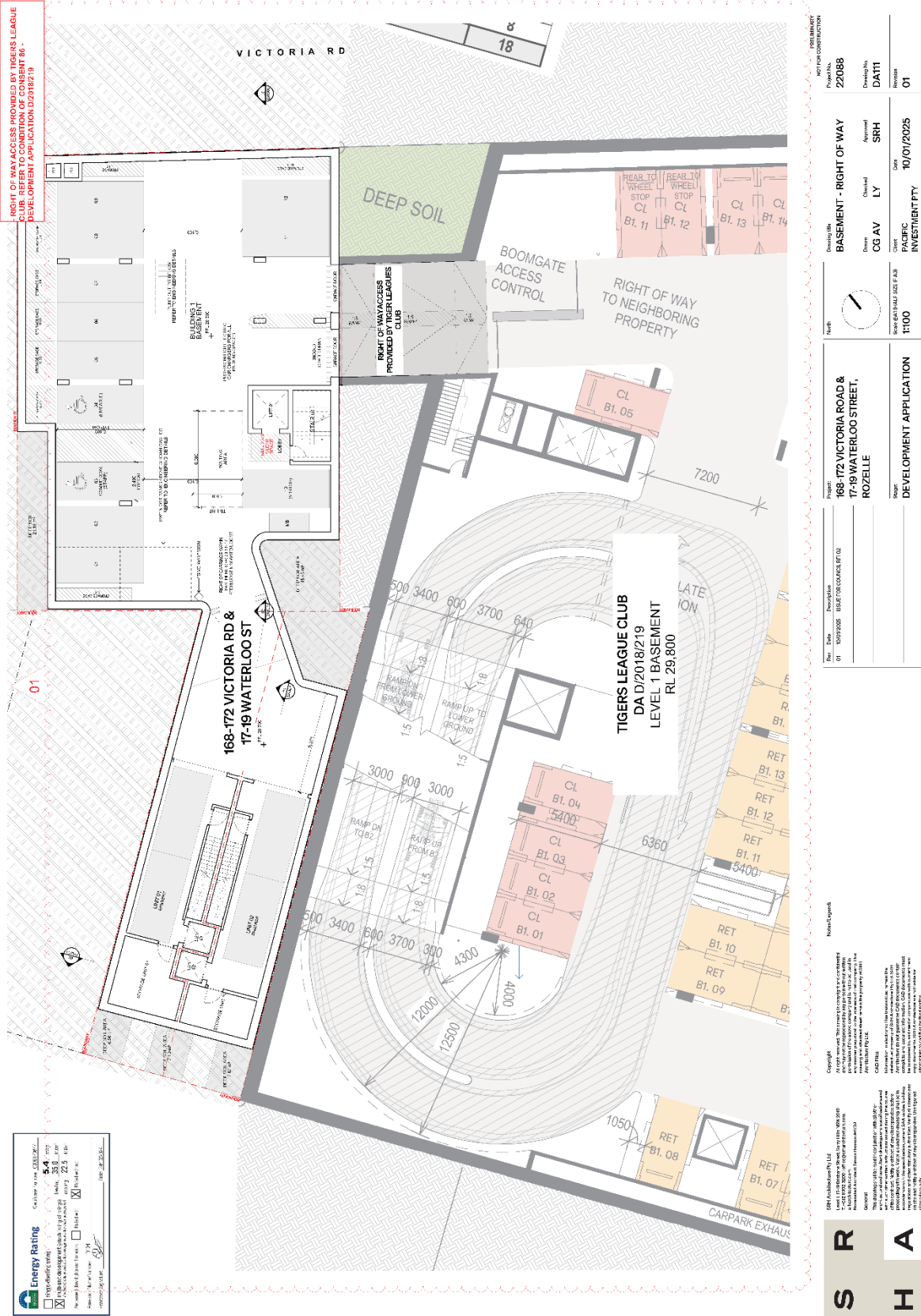
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Energy Rating

See how to use ENERGY RATING

Independent audit
 Minimum energy rating of 1.5 stars
 Energy Star
 6.4 stars
 2.2 stars
 2.5 stars
 2.8 stars
 3.1 stars
 3.4 stars
 3.7 stars
 4.0 stars
 4.3 stars
 4.6 stars
 4.9 stars
 5.2 stars
 5.5 stars
 5.8 stars
 6.1 stars
 6.4 stars
 6.7 stars
 7.0 stars
 7.3 stars
 7.6 stars
 7.9 stars
 8.2 stars
 8.5 stars
 8.8 stars
 9.1 stars
 9.4 stars
 9.7 stars
 10.0 stars

Project No	22088
Design No	DA11
Revision	01
Design/Check/Drawn	SRH/ LY
CG AV	SRH
Date	10/01/2025
Client	PACIFIC INVESTMENT LTD
Scale	AS1:1 (A4) (A3) 1:50
North	1100

Project	168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE
Rev	01
Date	10/01/2025
Description	DEVELOPMENT APPLICATION
Rev	01
Date	10/01/2025
Description	DEVELOPMENT APPLICATION

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Client

PACIFIC INVESTMENT LTD

Architect

SRH Architects Pty Ltd

Scale

AS1:1 (A4) (A3) 1:50

S R A

S H A

- REVERSED FACADE ENTRANCE
 - AMENDED ELEVATION TO REFLECT FLOORPLANS
 - ALTERNATIVE MATERIALS
 - PRIVACY SCREENS

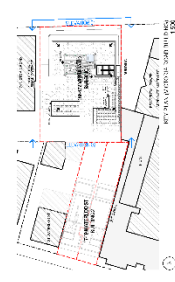
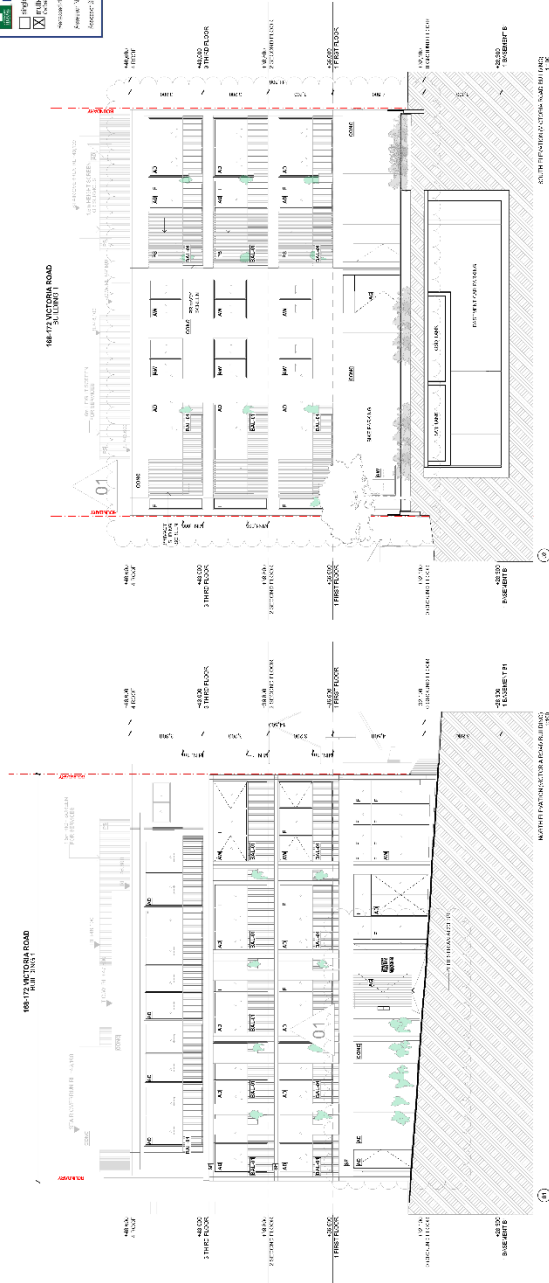
Energy Rating (GEM 2011/2016) (GEM 2011/2016)

High Performance
 Standard Performance
 Minimum Performance

Maximum Star Rating: 3.5
 Minimum Star Rating: 2.5
 Maximum Energy Use Intensity (EUI): 22.5 kWh/m²/yr
 Minimum Energy Use Intensity (EUI): 12.5 kWh/m²/yr

Approved Star Rating: 3.5
 Approved EUI: 12.5 kWh/m²/yr

Approved Date: 10/01/2025
 Approved By: [Signature]



Rev.	Date	Description
01	10/01/2025	DATE SUBMITTED
02	24/10/2024	RECEIVED FOR CONSIDERATION BY CIP
03	10/01/2025	FINAL APPROVAL BY CIP

Project: 168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE
 Scale: AS1:500 (PLAN) & AS1:100 (SECTION)
 Date: 10/01/2025
 Checked: LY
 Approved: SRH
 Drawing No: DA200
 Project No: 22088
 Client: PACIFIC INVESTMENT PTY LTD
 Architect: [Signature]

Materials Legend

COM CONCRETE
 _BAL_01 STEEL BALUSTRADE
 AD ALUMINIUM DOOR
 AW ALUMINIUM WINDOW
 SF STEEL FRAME
 FR VERTICAL PRIVACY SCREEN

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Scale

Scale: AS1:500 (PLAN) & AS1:100 (SECTION)

Notes

1. All dimensions are in millimeters unless otherwise stated.
 2. All materials are to be of a quality suitable for the intended use.
 3. All work is to be in accordance with the relevant Australian Standards.
 4. All work is to be in accordance with the relevant Building Code of Australia (BCA) provisions.
 5. All work is to be in accordance with the relevant local council requirements.

SHR A

10/01/2025 10:00 AM
 10/01/2025 10:00 AM

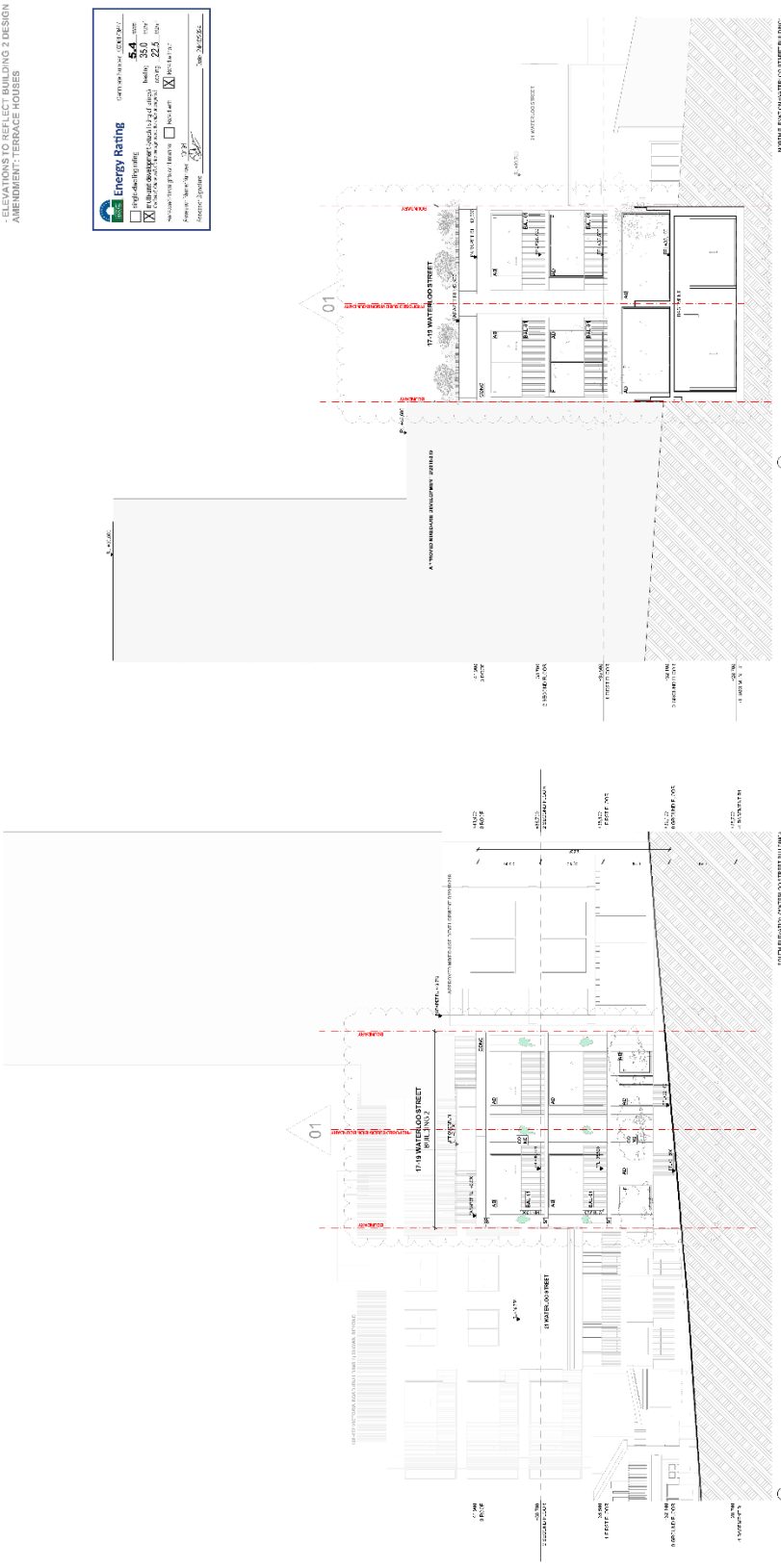
- ELEVATIONS TO REFLECT BUILDING 2 DESIGN
AMENDMENT: TERRACE HOUSES

Energy Rating Complies with the Energy Rating Scheme

Single Dwelling
 Multi-Dwelling
 Commercial
 Industrial

Maximum Energy Rating: 3.5
 Minimum Energy Rating: 2.5
 Maximum Energy Rating: 2.5
 Minimum Energy Rating: 2.5

Approved by: [Signature]
 Date: 20/01/2025
 Project No: 22088



Rev	Date	Description
01	15/01/2024	DATE SUBMITTED
02	24/01/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL FOR COUNCIL PER CG

Project:	
168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE	
Scale:	
1:1000, 1:1500	
Client:	
PACIFIC INVESTMENT PTY LTD	
Design No:	
22088	
Approval:	
DA201	
Check:	
LY	
Approved:	
SRH	
Date:	
10/01/2025	

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2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
3. ALL MATERIALS AND FINISHES ARE TO BE AS SHOWN ON THE DRAWING.
4. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS 2011.
5. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL REGULATIONS 2017.
6. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL PLUMBING REGULATIONS 2017.
7. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL GAS REGULATIONS 2017.
8. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL WATER REGULATIONS 2017.
9. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL WIND REGULATIONS 2017.
10. ALL WORK IS TO BE IN ACCORDANCE WITH THE NATIONAL SEWER REGULATIONS 2017.

Materials:
 CONCRETE RENDER
 STEEL BALUSTRADE
 ALUMINIUM DOOR
 ALUMINIUM WINDOW

Scale: 1:1000, 1:1500

Client: PACIFIC INVESTMENT PTY LTD

Design No: 22088

Approval: DA201

Check: LY

Approved: SRH

Date: 10/01/2025

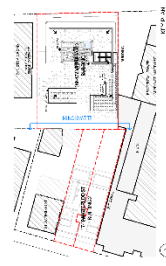
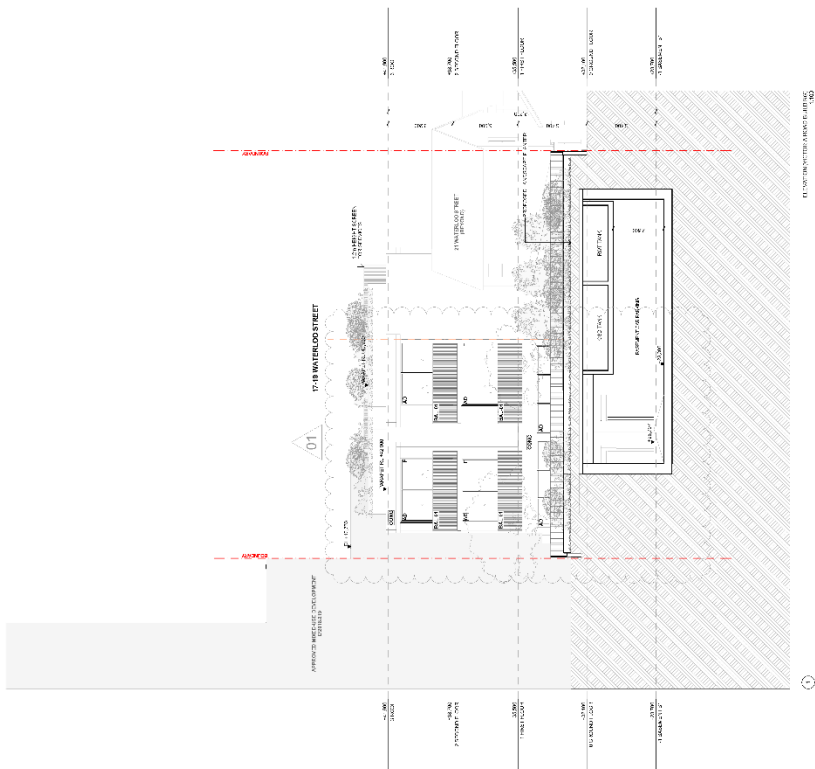


ELEVATIONS TO REFLECT BUILDING 2 DESIGN
AMENDMENT: TERRACE HOUSES

Energy Rating GREEN STAR RATING (GSR)

1 star
 2 star
 3 star
 4 star
 5 star

Approved by: *[Signature]*
 Date: 22/01/2025
 Project No: 22/01/2025



Rev	Date	Description
01	10/01/2025	DATE SUBMITTED
02	24/01/2025	REVISIONS
03	10/01/2025	FINAL APPROVAL FOR CG

Project: 168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE

Scale: 1:1000 (SCALE 1:1000)

Client: PACIFIC INVESTMENT LTD

Date: 10/01/2025

Material	Description
CONC	CONCRETE
BAL-01	STEEL BALUSTRADE
AW	ALUMINUM WINDOW
AD	ALUMINUM DOOR

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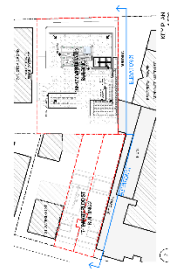
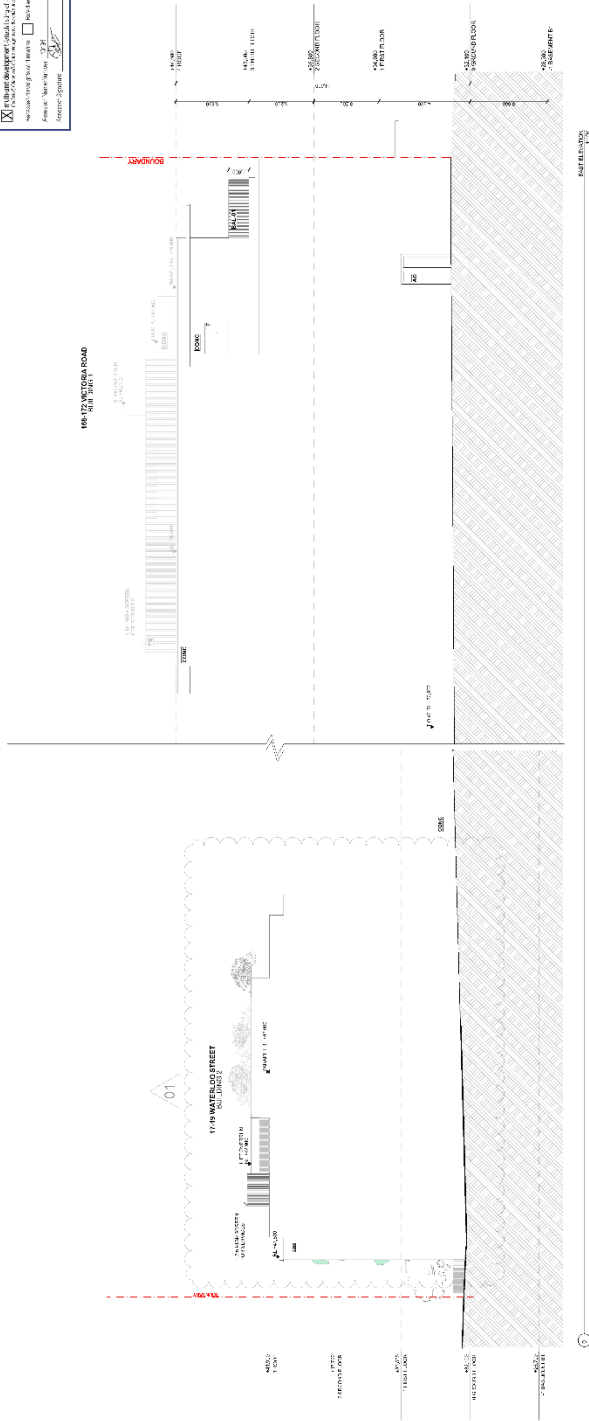
10/01/2025 10:00 AM

- ELEVATIONS TO REFLECT BUILDING 2 DESIGN
AMENDMENT: TERRACE HOUSES

Energy Rating GREEN STAR RATED BUILDING

1 Star
 2 Star
 3 Star
 4 Star
 5 Star

Approved by: *[Signature]*
 Date: 22/05/2024
 Project No: 22/05/2024



Rev	Date	Description
01	15/01/2024	DATE SUBMITTED
02	24/05/2024	REVISIONS FOR COUNCIL PERIOD
03	10/01/2025	FINAL DEVELOPMENT APPLICATION

Project No	22088
Design No	DA220
Client	PACIFIC INVESTMENT LTD
Scale	AS SHOWN
Drawn	CG AV
Checked	LY
Approved	SRH
Date	10/01/2025

Notes:

- 1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT BUILDING CODE OF PRACTICE (BCP) AND THE CURRENT BUILDING REGULATIONS (BR).
- 2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT ELECTRICAL CODE OF PRACTICE (ECP) AND THE CURRENT ELECTRICAL REGULATIONS (ER).
- 3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT PLUMBING AND MECHANICAL CODE OF PRACTICE (P&M) AND THE CURRENT PLUMBING AND MECHANICAL REGULATIONS (P&MR).
- 4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT FIRE CODE OF PRACTICE (FCP) AND THE CURRENT FIRE REGULATIONS (FR).
- 5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT ENVIRONMENTAL CODE OF PRACTICE (ECP) AND THE CURRENT ENVIRONMENTAL REGULATIONS (ER).
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- 8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT QUALITY MANAGEMENT SYSTEM (QMS) AND THE CURRENT QUALITY MANAGEMENT SYSTEM REGULATIONS (QMSR).
- 9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT RISK MANAGEMENT SYSTEM (RMS) AND THE CURRENT RISK MANAGEMENT SYSTEM REGULATIONS (RMSR).
- 10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE CURRENT COMPLIANCE CODE OF PRACTICE (CCP) AND THE CURRENT COMPLIANCE REGULATIONS (CR).

Materials:

- CONC: CONCRETE
- BAL: STEEL BALUSTRADE
- AW: ALUMINIUM WINDOW
- AD: ALUMINIUM DOOR
- PS: PRIVATE SCREEN

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Scale:

AS SHOWN

Drawn: CG AV
Checked: LY
Approved: SRH
Date: 10/01/2025

Project No: 22088
Design No: DA220
Client: PACIFIC INVESTMENT LTD

Energy Rating (Minimum Energy Requirement)

Single Dwelling
 Multi-Dwelling
 Commercial
 Industrial
 Other

Project Name: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**
 Address: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**
 Project No: **22088**
 Date: **10/01/2025**



Rev	Date	Description
01	10/01/2024	DATE SUBMITTED
02	14/01/2024	RECEIVED BY COUNCIL PER CG
03	10/01/2025	ISSUED FOR COUNCIL PER CG

Project: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**

Client: **PACIFIC INVESTMENT PTY LTD**

Project No: **22088**

Design No: **DA230**

Issue Date: **10/01/2025**

Scale: **AS1: 1:100 (A4) 1:200 (A3)**

Rev	Date	Description
01	10/01/2024	DATE SUBMITTED
02	14/01/2024	RECEIVED BY COUNCIL PER CG
03	10/01/2025	ISSUED FOR COUNCIL PER CG

Project: **168-172 VICTORIA ROAD & 17-19 WATERLOO STREET, ROZELLE**

Client: **PACIFIC INVESTMENT PTY LTD**

Project No: **22088**

Design No: **DA230**

Issue Date: **10/01/2025**

Scale: **AS1: 1:100 (A4) 1:200 (A3)**

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SHA

10/01/2025 10:00 AM

Energy Rating GREEN STAR RATED BUILDING

High Glazing
 High Glazing with Low E Glass
 High Glazing with Low E Glass and Gas Argon
 Double Glazing
 Triple Glazing
 Other

Air Conditioning: None Heat Pump Heat Pump +
 Heating System: Gas Electric Heat Pump

Metering: None Metering
 Metering System: None Metering

Rating: **3.5** (3.5) 3.5
 Max. Rating: **3.5** (3.5) 3.5
 Min. Rating: **2.5** (2.5) 2.5
 Date: 22/01/2024



Rev	Date	Description
01	10/11/2023	DATE SUBMITTED
02	24/10/2024	REVISIONS FOR COMMENTS
03	10/01/2025	FINAL DEVELOPMENT APPLICATION

Project No.	22088
Design No.	DA231
Client	PACIFIC INVESTMENT LTD
Project Name	168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE
Project Address	168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE
Project Description	DEVELOPMENT APPLICATION
Project Status	1200
Project Date	10/01/2025

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Scale
 1:100

Notes
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 2. All materials to be specified in the schedule of materials.
 3. All work to be done in accordance with the Australian Standards.

SRP Acknowledgment (s)
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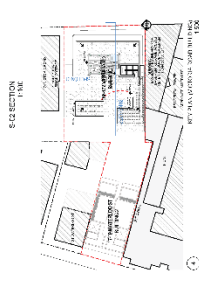
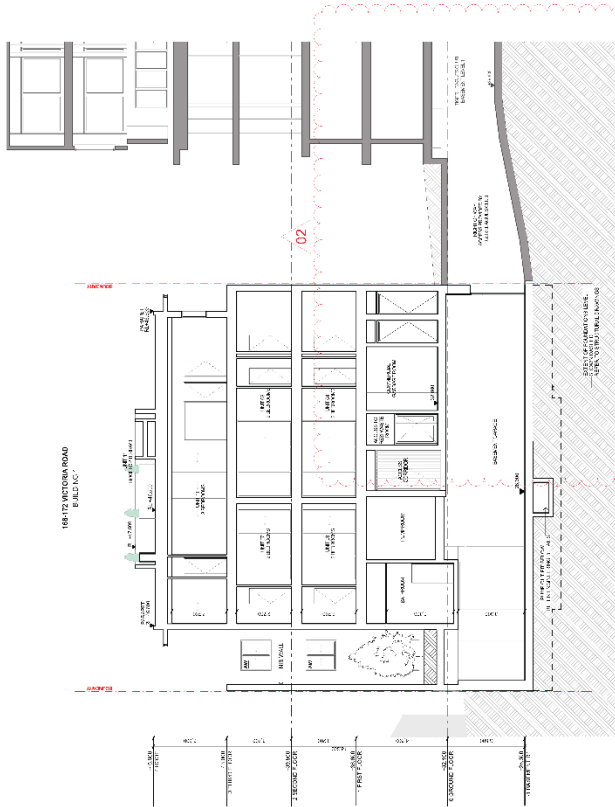
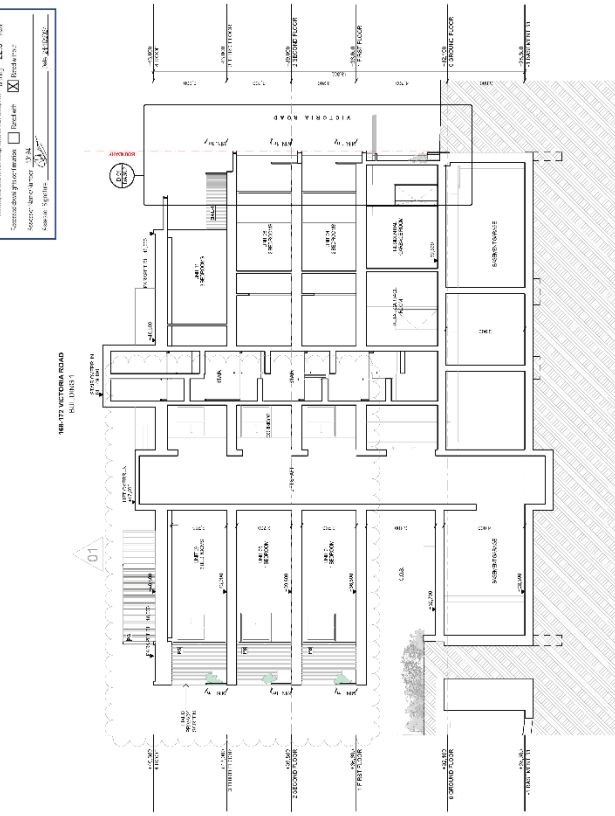
SRP Acknowledgment (s)
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10/01/2025 10:00 AM

- NATURAL LIGHT AND VENTILATION IN COMMON CORRIDORS OF BUILDING 1
 - UNITS 105 & 106 BALCONY RECREATION AND PRIVACY SCREENS TO MITIGATE CROSS VIEWS TO NEIGHBOURS
 - R2 - RIGHT OF WAY ACCESS PROVIDED BY FIGUIERE LEAGUE CLUB APPLICATION 22/01/21

Energy Rating Section 444C, 444D, 444E, 444F, 444G, 444H, 444I, 444J, 444K, 444L, 444M, 444N, 444O, 444P, 444Q, 444R, 444S, 444T, 444U, 444V, 444W, 444X, 444Y, 444Z, 444AA, 444AB, 444AC, 444AD, 444AE, 444AF, 444AG, 444AH, 444AI, 444AJ, 444AK, 444AL, 444AM, 444AN, 444AO, 444AP, 444AQ, 444AR, 444AS, 444AT, 444AU, 444AV, 444AW, 444AX, 444AY, 444AZ, 444BA, 444BB, 444BC, 444BD, 444BE, 444BF, 444BG, 444BH, 444BI, 444BJ, 444BK, 444BL, 444BM, 444BN, 444BO, 444BP, 444BQ, 444BR, 444BS, 444BT, 444BU, 444BV, 444BW, 444BX, 444BY, 444BZ, 444CA, 444CB, 444CC, 444CD, 444CE, 444CF, 444CG, 444CH, 444CI, 444CJ, 444CK, 444CL, 444CM, 444CN, 444CO, 444CP, 444CQ, 444CR, 444CS, 444CT, 444CU, 444CV, 444CW, 444CX, 444CY, 444CZ, 444DA, 444DB, 444DC, 444DD, 444DE, 444DF, 444DG, 444DH, 444DI, 444DJ, 444DK, 444DL, 444DM, 444DN, 444DO, 444DP, 444DQ, 444DR, 444DS, 444DT, 444DU, 444DV, 444DW, 444DX, 444DY, 444DZ, 444EA, 444EB, 444EC, 444ED, 444EE, 444EF, 444EG, 444EH, 444EI, 444EJ, 444EK, 444EL, 444EM, 444EN, 444EO, 444EP, 444EQ, 444ER, 444ES, 444ET, 444EU, 444EV, 444EW, 444EX, 444EY, 444EZ, 444FA, 444FB, 444FC, 444FD, 444FE, 444FF, 444FG, 444FH, 444FI, 444FJ, 444FK, 444FL, 444FM, 444FN, 444FO, 444FP, 444FQ, 444FR, 444FS, 444FT, 444FU, 444FV, 444FW, 444FX, 444FY, 444FZ, 444GA, 444GB, 444GC, 444GD, 444GE, 444GF, 444GG, 444GH, 444GI, 444GJ, 444GK, 444GL, 444GM, 444GN, 444GO, 444GP, 444GQ, 444GR, 444GS, 444GT, 444GU, 444GV, 444GW, 444GX, 444GY, 444GZ, 444HA, 444HB, 444HC, 444HD, 444HE, 444HF, 444HG, 444HH, 444HI, 444HJ, 444HK, 444HL, 444HM, 444HN, 444HO, 444HP, 444HQ, 444HR, 444HS, 444HT, 444HU, 444HV, 444HW, 444HX, 444HY, 444HZ, 444IA, 444IB, 444IC, 444ID, 444IE, 444IF, 444IG, 444IH, 444II, 444IJ, 444IK, 444IL, 444IM, 444IN, 444IO, 444IP, 444IQ, 444IR, 444IS, 444IT, 444IU, 444IV, 444IW, 444IX, 444IY, 444IZ, 444JA, 444JB, 444JC, 444JD, 444JE, 444JF, 444JG, 444JH, 444JI, 444JJ, 444JK, 444JL, 444JM, 444JN, 444JO, 444JP, 444JQ, 444JR, 444JS, 444JT, 444JU, 444JV, 444JW, 444JX, 444JY, 444JZ, 444KA, 444KB, 444KC, 444KD, 444KE, 444KF, 444KG, 444KH, 444KI, 444KJ, 444KK, 444KL, 444KM, 444KN, 444KO, 444KP, 444KQ, 444KR, 444KS, 444KT, 444KU, 444KV, 444KW, 444KX, 444KY, 444KZ, 444LA, 444LB, 444LC, 444LD, 444LE, 444LF, 444LG, 444LH, 444LI, 444LJ, 444LK, 444LL, 444LM, 444LN, 444LO, 444LP, 444LQ, 444LR, 444LS, 444LT, 444LU, 444LV, 444LW, 444LX, 444LY, 444LZ, 444MA, 444MB, 444MC, 444MD, 444ME, 444MF, 444MG, 444MH, 444MI, 444MJ, 444MK, 444ML, 444MM, 444MN, 444MO, 444MP, 444MQ, 444MR, 444MS, 444MT, 444MU, 444MV, 444MW, 444MX, 444MY, 444MZ, 444NA, 444NB, 444NC, 444ND, 444NE, 444NF, 444NG, 444NH, 444NI, 444NJ, 444NK, 444NL, 444NM, 444NN, 444NO, 444NP, 444NQ, 444NR, 444NS, 444NT, 444NU, 444NV, 444NW, 444NX, 444NY, 444NZ, 444OA, 444OB, 444OC, 444OD, 444OE, 444OF, 444OG, 444OH, 444OI, 444OJ, 444OK, 444OL, 444OM, 444ON, 444OO, 444OP, 444OQ, 444OR, 444OS, 444OT, 444OU, 444OV, 444OW, 444OX, 444OY, 444OZ, 444PA, 444PB, 444PC, 444PD, 444PE, 444PF, 444PG, 444PH, 444PI, 444PJ, 444PK, 444PL, 444PM, 444PN, 444PO, 444PP, 444PQ, 444PR, 444PS, 444PT, 444PU, 444PV, 444PW, 444PX, 444PY, 444PZ, 444QA, 444QB, 444QC, 444QD, 444QE, 444QF, 444QG, 444QH, 444QI, 444QJ, 444QK, 444QL, 444QM, 444QN, 444QO, 444QP, 444QQ, 444QR, 444QS, 444QT, 444QU, 444QV, 444QW, 444QX, 444QY, 444QZ, 444RA, 444RB, 444RC, 444RD, 444RE, 444RF, 444RG, 444RH, 444RI, 444RJ, 444RK, 444RL, 444RM, 444RN, 444RO, 444RP, 444RQ, 444RR, 444RS, 444RT, 444RU, 444RV, 444RW, 444RX, 444RY, 444RZ, 444SA, 444SB, 444SC, 444SD, 444SE, 444SF, 444SG, 444SH, 444SI, 444SJ, 444SK, 444SL, 444SM, 444SN, 444SO, 444SP, 444SQ, 444SR, 444SS, 444ST, 444SU, 444SV, 444SW, 444SX, 444SY, 444SZ, 444TA, 444TB, 444TC, 444TD, 444TE, 444TF, 444TG, 444TH, 444TI, 444TJ, 444TK, 444TL, 444TM, 444TN, 444TO, 444TP, 444TQ, 444TR, 444TS, 444TT, 444TU, 444TV, 444TW, 444TX, 444TY, 444TZ, 444UA, 444UB, 444UC, 444UD, 444UE, 444UF, 444UG, 444UH, 444UI, 444UJ, 444UK, 444UL, 444UM, 444UN, 444UO, 444UP, 444UQ, 444UR, 444US, 444UT, 444UU, 444UV, 444UW, 444UX, 444UY, 444UZ, 444VA, 444VB, 444VC, 444VD, 444VE, 444VF, 444VG, 444VH, 444VI, 444VJ, 444VK, 444VL, 444VM, 444VN, 444VO, 444VP, 444VQ, 444VR, 444VS, 444VT, 444VU, 444VV, 444VW, 444VX, 444VY, 444VZ, 444WA, 444WB, 444WC, 444WD, 444WE, 444WF, 444WG, 444WH, 444WI, 444WJ, 444WK, 444WL, 444WM, 444WN, 444WO, 444WP, 444WQ, 444WR, 444WS, 444WT, 444WU, 444WV, 444WW, 444WX, 444WY, 444WZ, 444XA, 444XB, 444XC, 444XD, 444XE, 444XF, 444XG, 444XH, 444XI, 444XJ, 444XK, 444XL, 444XM, 444XN, 444XO, 444XP, 444XQ, 444XR, 444XS, 444XT, 444XU, 444XV, 444XW, 444XX, 444XY, 444XZ, 444YA, 444YB, 444YC, 444YD, 444YE, 444YF, 444YG, 444YH, 444YI, 444YJ, 444YK, 444YL, 444YM, 444YN, 444YO, 444YP, 444YQ, 444YR, 444YS, 444YT, 444YU, 444YV, 444YW, 444YX, 444YY, 444YZ, 444ZA, 444ZB, 444ZC, 444ZD, 444ZE, 444ZF, 444ZG, 444ZH, 444ZI, 444ZJ, 444ZK, 444ZL, 444ZM, 444ZN, 444ZO, 444ZP, 444ZQ, 444ZR, 444ZS, 444ZT, 444ZU, 444ZV, 444ZW, 444ZX, 444ZY, 444ZZ



Rev	Date	Description	Project No.	22088
01	15/01/2024	DRAWING	Drawn By	DA300
02	24/03/2024	REVISIONS	Checked	LY
03	10/01/2025	FINAL APPROVAL	Approved	SRH

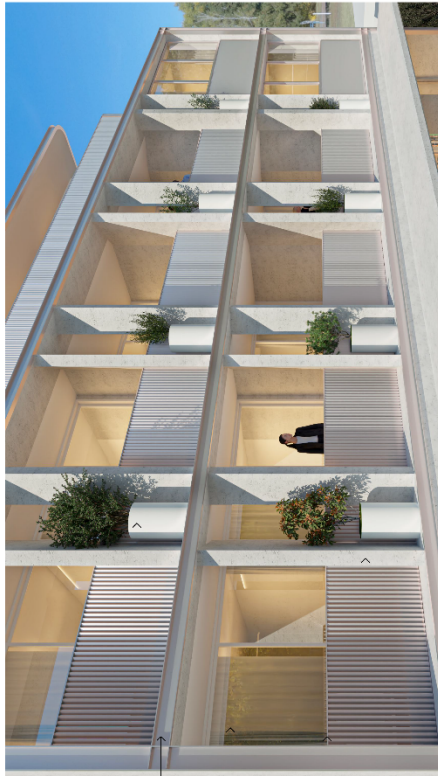
Section No.	CG AV	LY	SRH	10/01/2025
Scale	AS SHOWN			
Client	PACIFIC INVESTMENT LTD			
Project Name	168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE			
Area	1100.15 SQM			
Notes	DEVELOPMENT APPLICATION			

SRH Architects Pty Ltd
 Level 11, 100 George Street, Sydney, NSW 2000
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 Email: info@srh.com.au
 Website: www.srh.com.au

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Energy Rating

Star Rating: 5.4

Energy Rating Agency: [Logo]

Energy Rating Certificate No: [Number]

Energy Rating Valid Until: [Date]

Energy Rating Agency Name: [Name]

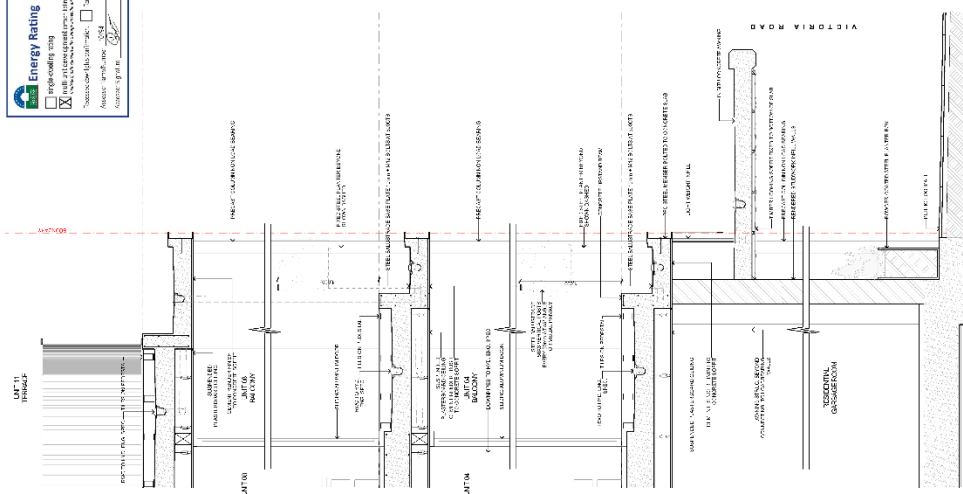
Energy Rating Agency Address: [Address]

Energy Rating Agency Phone: [Phone]

Energy Rating Agency Email: [Email]

Energy Rating Agency Website: [Website]

- PROFILE MEMBER BACK TO CONCRETE SUBS
- SLIP TRICK LUM BALCONY
- STEEL BALUSTRADE AND VERTICAL POSTS EVERY 100MM, 40x40x40x3mm GALV. STEEL
- PERMANENT TO 1000MM WITH 1200MM FINISH
- IN SITU CONCRETE FINISH
- TIE BARS LOCATED TO BOTTOM OF SUBS
- PRECAST COLUMN WITH LOG FINISHING
- REDUCED STRENGTH M.F. LUM
- CONCRETE COATED STEEL - JAMMER BOX



Rev	Date	Description
01	24/03/2021	ISSUE FOR COUNCIL ET OF
02	03/03/2022	ISSUE FOR COUNCIL PER GO

Project No	22088
Drawing No	DA302
Revision	02

Detail Section	CG AV	LY	SRH
Drawn	CG AV	LY	SRH
Checked	LY	SRH	
Approved			
Date	10/01/2025		

Scale	1:20
Sheet No	120
Project Name	168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE
Client	PACIFIC INVESTMENT LTD
Project Location	168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE
Project Description	DEVELOPMENT APPLICATION

SHAR

Structural

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Client

PACIFIC INVESTMENT LTD

Project

168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE

Scale

1:20

Revision

02

Date

10/01/2025

Author

CG AV

Checked

LY

Approved

SRH



VIEW OF THE MAIN FACADE FROM VICTORIA ROAD

Energy Rating 5.4

Approved by the NSW Energy Rating Authority

Approved by the NSW Energy Rating Authority

S R H A

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Client
 168-172 Victoria Road & 17-19 Waterloo Street, Rozelle

Architect
 Pacific Investment Pty Ltd

Rev.	Date	Description
01	10/01/2024	DATE SUBMITTED
02	14/01/2024	RECEIVED BY COUNCIL
03	10/01/2025	DATE OF COUNCIL MEETING

Project: 168-172 VICTORIA ROAD & 17-19 WATERLOG STREET, ROZELLE

Client: PACIFIC INVESTMENT PTY LTD

Architect: CG AV LY SRH

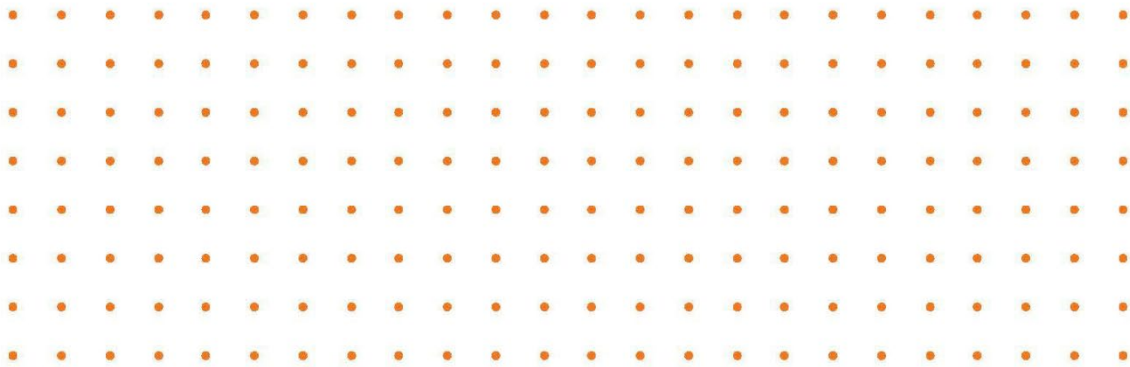
Project No.: 22088

Drawing No.: DAY00

Scale: 1:100

Issue Date: 10/01/2025

Attachment C – Section 4.6 Exception to Development Standards

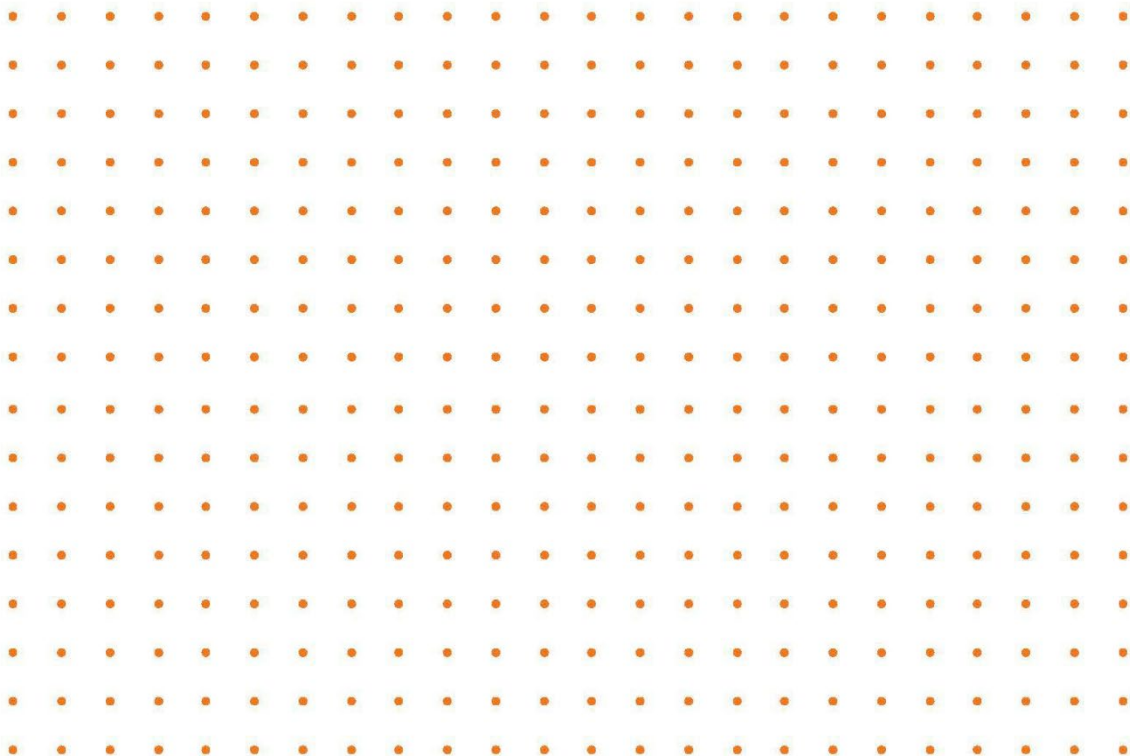


VARIATION TO FLOOR SPACE RATIO DEVELOPMENT STANDARD

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

GLN 12045

20 February 2025



Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

Summary Description	
Property:	Lot 2 in DP 323480; 168 Victoria Road, Rozelle Lot A and B in DP 436153; 170-172 Victoria Road SP67362; 17-19 Waterloo Street, Rozelle NSW 2039
Development:	Mixed use development comprising one commercial premises, 11 residential units and 2 dwelling houses with basement parking.
Development Standard to be varied:	Clause 4.4(2) 'Floor Space Ratio' under <i>Inner West Local Environmental Plan 2022</i> (Maximum FSR of 1:1) Clause 23(1)(b) 'Commercial Floor Space control' under <i>Leichhardt Local Environmental Plan 2000</i> (Maximum FSR of 1.5:1)
Development Plans:	Architectural Plans by SRH Architecture Pty Ltd, dated 14 November 2024



Source: SRH Architecture, 2024

Figure 1 Streetscape Render – Victoria Road frontage

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GLN 12045 – Variation to development standards
February 2025



Document Set ID: 40173282
Version: 1, Version Date: 20/02/2025

Variation to Floor Space Ratio development standard
 168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

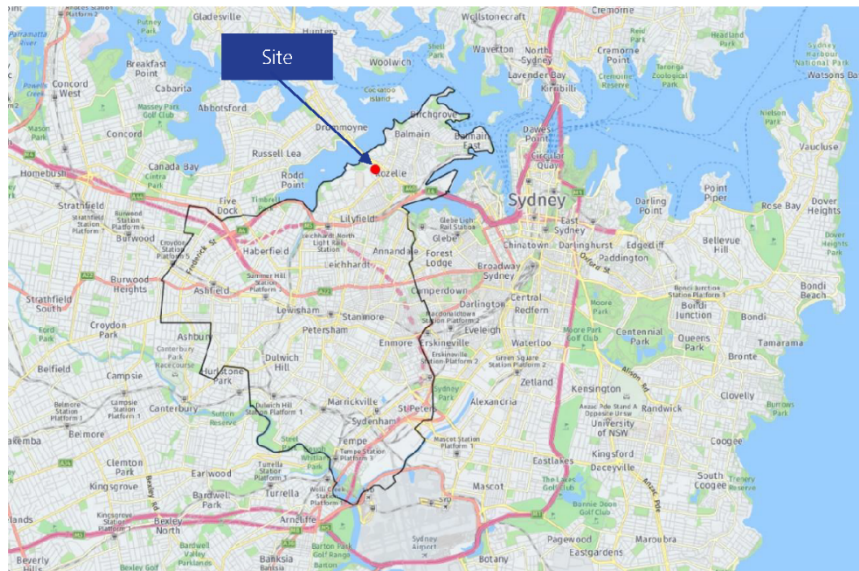
1 Background and Summary

1.1 Introduction

The proposed development involves the construction of a mixed use development comprising one commercial premise, 11 residential units and two dwelling houses with basement parking. The building is split into two podiums measuring three storeys in height along Waterloo Street and four storeys in height along Victoria Road with rooftop open space.

1.2 Location

The site is located within the Inner West Council Local Government Area (LGA) and is less than 4 kilometres west of the Sydney CBD. The site is located within walking distance of the Rozelle Shopping strip in Darling Street and Balmain Road, both north and south of Victoria Road. Iron Cove and extensive parklands that includes Callan Park and the Bay Run are located approximately 500m to the west.



Source: dipole

Figure 2 Location of subject site within Inner West Council LGA

1.3 The Site

The subject site is legally described as Lot 2, DP 323480, 168 Victoria Road, Lot A and B, DP 436153, 170-172 Victoria Road and SP 67362, 17-19 Waterloo Street, Rozelle (**the Site**).

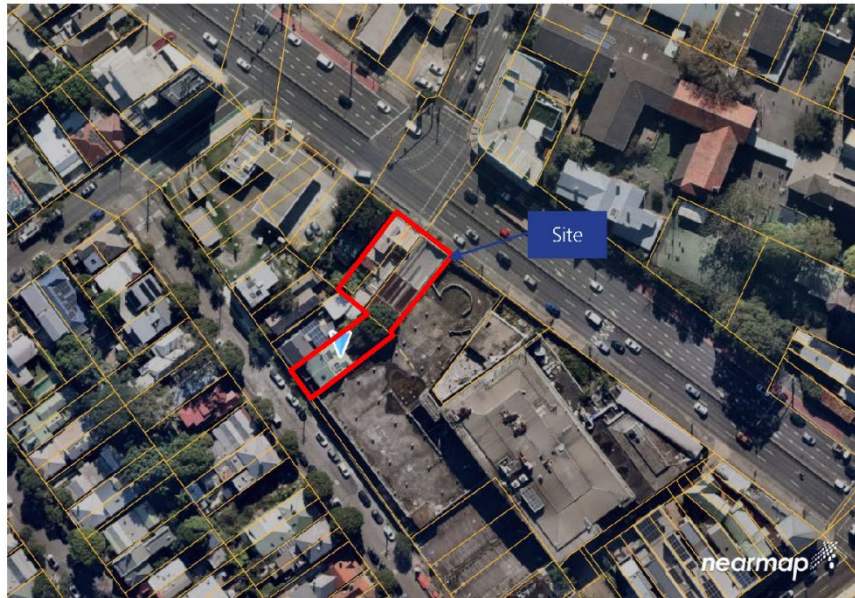
The Site is irregular in shape and has a total area of 877.06m. This includes 575.83m² over 168-172 Victoria Road and 301.2m² over 17-19 Waterloo Street. It has two road frontages including a 21m

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

frontage to the southern side of Victoria Road and a 10m frontage to the northern side of Waterloo Street. Victoria Road is an arterial road while Waterloo Street is a local road.

The Site is currently developed with residential dwellings comprised of one to two storeys, a single storey warehouse building and small areas of open space in the rear yards of the existing residential properties.



Source: Nearmap

Figure 3 Aerial photo of the site

1.4 Zoning

1.4.1 Inner West Local Environmental Plan 2022

- 168-172 Victoria Road, Rozelle

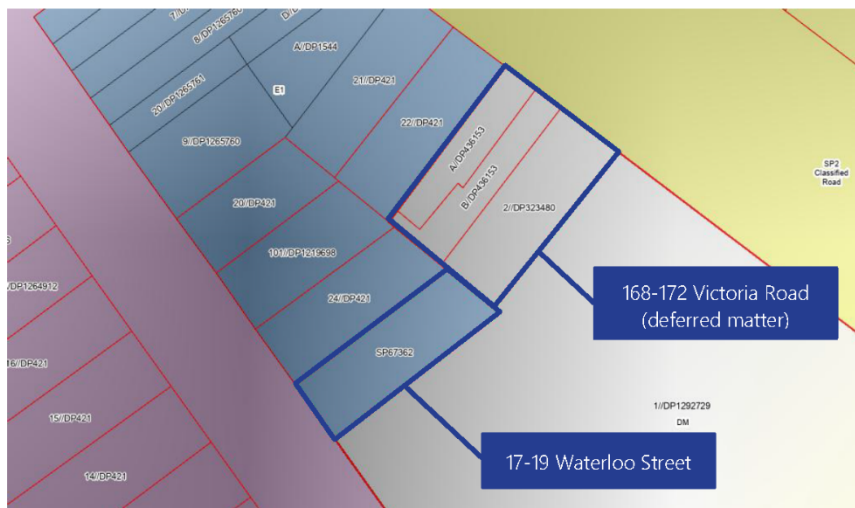
The eastern part of the Site, being 168-172 Victoria Road, is mapped under Inner West LEP 2022 (**IW LEP**) as a 'deferred matter' as illustrated within **Figure 4**. In accordance with cl 1.3(1A) Land to which Plan applies, IW LEP identifies that this Plan (i.e. IW LEP) does not apply to the subject site as it is identified as a 'deferred matter' on the land application map.

Clause 1.8(1) 'Repeal of planning instruments applying to the land', states all local environmental plans and deemed environmental planning instruments applying only to *the land to which this Plan applies* are repealed. As this clause applies only to land to which IW LEP applies of which does not include 168-172 Victoria Road, the previous LEP is not repealed and continues to apply to this part of the Site. This includes *Leichhardt Local Environmental Plan 2000 (LLEP 2000)*.

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

Clause 1.8(2) states that all LEPs and deemed EPs applying to the land to which IW LEP applies and to other land, cease to apply to the land to which IW LEP applies. Again, as IW LEP does not apply to the Site, this clause does not apply and therefore LLEP 2000 would continue to apply to the affected part of the Site.



Source: NSW legislation – Inner West LEP 2022

Figure 4 Land Use Zoning under Inner West LEP 2022

- 17-19 Waterloo Street, Rozelle

The western part of the Site, being 17-19 Waterloo Street, is mapped E1 – Local Centre under IW LEP 2022 (**Figure 4**). It is mapped with an FSR of 1:1. Further under clause 4.4A, an FSR of 1.5:1 will be considered if the following criteria is achieved:

- (a) will have an active street frontage, and
- (b) is mixed use development that includes residential accommodation, and
- (c) is compatible with the desired character of the area in relation to its bulk, form, uses and scale.

We note that 17-19 Waterloo Street relies on existing use rights due to the historic use of the Site for dwelling houses. As such, the relevant control is the mapped FSR for the Site. Any variation to this development standard is required to be considered under clause 4.6 of IW LEP 2022.

1.4.2 Leichhardt Local Environmental Plan 2000

As mapped under IW LEP and LLEP 2013, 168-172 Victoria Road is mapped as a ‘deferred matter’. As such, the provisions of LLEP 2000 apply as illustrated within **Figure 5**. Under LLEP 2000, 168-172 Victoria Road is zoned ‘Business’. The development over this portion of the Site seeks approval for

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

a mixed-use development consisting of a commercial premise and residential flat building which is permissible with consent in the business zone.

Clause 23(1)(a) under LLEP 2000 states that the FSR of a building on the land must not exceed 1:1. However, clause 23(1)(b) states that consent may be granted to a mixed use development with an FSR of 1.5:1 provided the ground level is used for non-residential development.

Exceptions to development standards are required to be considered under clause 40 of LLEP 2000 (formerly SEPP 1 Objection).



Source: NSW Government Legislation Website

Figure 5 Land use zoning under Leichhardt LEP 2000

1.5 Summary of Variation Request

The proposal includes the construction of a mixed use building and dwelling houses that exceed the maximum Floor Space Ratio (**FSR**) as applicable to the Site under IW LEP and LLEP 2000.

A variation to the development standard is sought having regard to the site context, compliance with the objectives of the standard and a site responsive design that provides a high level of internal amenity and social interaction without adversely impacting the amenity of the surrounding properties and public domain.

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

2 Authority to vary a development standard

17-19 Waterloo Street, Rozelle (IW LEP 2022)

The objectives of clause 4.6 of the IW LEP 2022 seek to recognise that in particular circumstances strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the standard can be achieved as outlined below:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

(4) The consent authority must keep a record of its assessment carried out under subclause(3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

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Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5,

(ca) clause 6.27(4),

(cb), (cc) (Repealed)

(cd) clause 6.31.

168-172 Victoria Road, Rozelle (LLEP 2000)

The objectives of clause 40 of LLEP 2000 (formerly SEPP 1 Objection) outline that in particular circumstances strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the standard can be achieved as outlined below:

(1) *The objectives of this clause are as follows—*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—*

(a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*

(b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—

The Environmental Planning and Assessment Regulation 2021 requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

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(4) The consent authority must keep a record of its assessment carried out under subclause(3).

(5), (6) (Repealed)

(7) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated.

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

3 Development standard to be varied

17-19 Waterloo Street, Rozelle (IW LEP 2022)

A variation is requested to clause 4.4 Floor Space Ratio under IW LEP 2022 which relates to 17-19 Waterloo Street, Rozelle. This control needs to be considered in determining the maximum FSR over the Site and states:

Inner West LEP 2022

4.4 Floor space ratio

(1) *The objectives of this clause are as follows—*

(a) to establish a maximum floor space ratio to enable appropriate development density,

(b) to ensure development density reflects its locality,

(c) to provide an appropriate transition between development of different densities,

(d) to minimise adverse impacts on local amenity,

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

....

The Floor Space Ratio Map under IW LEP 2022 shows part of the Site to have a maximum FSR of 1:1 (17-19 Waterloo Street), refer to **Figure 6**.

Variation to Floor Space Ratio development standard
 168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039



Source: NSW Planning Viewer

Figure 6 IW LEP 2022 Floor Space Ratio Map (17-19 Waterloo Street)

As per Clause 4.5(2) of IW LEP 2022 'Floor Space Ratio' is defined as:

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

Under IW LEP 2022 'Gross Floor Area is defined within the dictionary as:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement—

- (i) storage, and
- (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.*

168-172 Victoria Road, Rozelle (LLEP 2000)

A variation is also requested to clause 23(1)(b) commercial floor space control under LLEP 2000. This clause along with relevant objectives for development within the Employment zone under LLEP 2000 are outlined below and have been considered in determining the FSR over the Site.

Leichhardt LEP 2000 – Part 5 Employment

20 Objectives

- (a) to ensure the sustainable growth of Leichhardt's economy by retaining existing employment uses and fostering a range of new industrial and business uses to meet the needs of the community,*
- (b) to reinforce and enhance the role, function and identity of established business centres by encouraging appropriate development and to ensure that surrounding development does not detract from the function of these centres,*
- (c) to integrate residential and business development in business centres,*
- (d) to ensure that buildings to be used for employment are appropriately located and designed to minimise the generation of noise, traffic, car parking, waste, pollution and other adverse impacts, to maintain the amenity of surrounding land uses, and avoid harm to the environment,*
- (e) to ensure the continuation of commercial port uses and railway uses,*
- (f) to allow a range of water-based commercial and recreational facilities in waterfront areas in order to retain the visual diversity and maritime character of the area,*
- (g) to ensure non-residential development in residential zones does not detract from the function of the established business centres.*

Leichhardt LEP 2000 – Part 5 Employment

23(1) Commercial floor space control

- (a) Consent must not be granted to the carrying out of non-residential development on land within any zone if it will result in the floor space ratio of a building on the land exceeding 1:1.*
- (b) Consent may be granted to the carrying out of mixed residential and other development on land within the Business Zone which results in a floor space ratio of a building on the land up to 1.5:1, but only if all floor space at the ground floor or street level is used for non-residential purposes (except for any floor space used for service and access purposes required for the residential component of the building in the floors above).*
- (c) Residential development on land within the Business Zone is only allowed in accordance with paragraph (b).*

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Variation to Floor Space Ratio development standard

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Under LLEP 2000, floor space ratio and gross floor area are defined as follows:

Gross floor area means the total area of a building's floorplates, measured between the outer edges of the outside walls or the centre line of any party wall, and includes mezzanines, attics, internal car parking spaces, garages, lofts and studios. It does not include projections outside the external walls of the building, paved areas, voids or basements used for car parking, where the car parking area does not protrude more than 1 metre above ground level.

Floor space ratio means the ratio of the gross floor area of a building to the site area of the land on which the building is erected.

3.1 Extent of Variation

The Site has an overall area of 877.1m² which is comprised of 301.27m² relating to 17-19 Waterloo Street and 575.83m². Due to the different environmental planning instruments (**EPI**) and FSRs applying to the Site, individual calculations have been prepared to consider FSR as outlined below.

Based on the EPI definitions above, the following maximum FSRs apply to the Site with the relevant variation sought to this FSR listed below:

- 17-19 Waterloo Street – Maximum FSR 1:1
 - 17 Waterloo Street (Lot size - 154.2m²) – Proposed GFA 168.04m² equating to an FSR of 1.09:1 (8.9% variation)
 - 19 Waterloo Street (Lot size - 147m²) – Proposed GFA 168.04m² equating to an FSR of 1.14:1 (14% variation)
- 168-172 Victoria Road (Lot size - 575.83m²) – Maximum GFA FSR 1.5:1 (Permitted GFA 863.75m²)
 - Proposed GFA 1306.24m² equating to an FSR 2.26:1 (51% variation)

Variation to Floor Space Ratio development standard
 168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039



Source: SRH Architecture, 14 November 2024

Figure 7 Gross Floor Area Calculation Plan

The Site is subject to two environmental planning instruments (EPI) including IW LEP 2022 and LLEP 2000. The definitions for GFA between the two EPIs are not the same. LLEP 2000 has a broad definition of GFA which essentially includes all floor space including service area, plant rooms and internal circulation. IW LEP excludes service areas, plant rooms and internal circulation.

For clarity, the calculation of gross floor area has adopted the definitions from both EPIs (IW LEP 2022 and LLEP 2000) as they apply to the relevant parts of the Site. Noting both LEPs have different FSRs and different clauses in which to consider variations to the development standards, the variations have been considered separately within this clause 4.6.

While this variation request has been prepared on the basis of the applicable LEPs applying to the Site (IW LEP 2022 and LLEP 2000), it is also relevant to consider 168-172 Victoria Road based the definition of GFA under IW LEP 2022 noting that:

- had 168-172 Victoria Road not have been a deferred matter it would instead be zoned under IW LEP and be subject to the definitions under IW LEP which would result in the development having a lower GFA.
- the adjoining properties to the north of 168-172 Victoria Road could be developed on the basis of the GFA definition under IW LEP. By considering what could be achieved under the IW LEP GFA definition, it enables a relevant comparison against what is capable of being delivered within the area including adjacent to this Site. This goes towards the future character of the area.

Based on the above, we note that 168-172 Victoria Road would achieve a **maximum FSR of 1.89:1 under IW LEP 2022** instead of an FSR of 2.26:1 under LLEP 2000.

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

Separately, 17-19 Waterloo Street, and surrounding properties along this street are capable of achieving a maximum FSR of 1.5:1 under clause 4.4A of IW LEP 2022 where the development provides for a commercial use on the ground level to activate the street frontage. This was originally proposed under this application but removed at the request of Council and the Architectural Design Panel. Notwithstanding, the Site and surrounding properties could achieve an FSR of up to 1.5:1 which is relevant to consider in the context of the future character of the area and whether the proposed development would be compatible.

Variation to Floor Space Ratio development standard

168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

4 Assessment

17-19 Waterloo Street, Rozelle (IW LEP 2022)

The following sections discuss the grounds for the variation under clause 4.6 of IW LEP 2022 which seeks to vary the FSR development standard.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (Clause 4.6(3)(a))

Clause 4.6(3)(a) requires the applicant to provide justification that strict compliance with the maximum FSR requirement is unreasonable or unnecessary in the circumstances of the case.

In *Wehbe v Pittwater Council (2007) NSWLEC 827*, Preston CJ established five potential ways for determining whether a development standard could be considered to be unreasonable or unnecessary. These include: -

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

We note that whilst *Wehbe* was a decision of the Court dealing with SEPP 1, it has been also found to be applicable in the consideration and assessment of clause 4.6. Regard is also had to the Court's decision in *Four2Five Pty Limited v Ashfield Council [2015] NSWLEC 90* and *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7*, which elaborated on how these five ways ought to be applied, requiring justification beyond compliance with the objectives of the development standard and the zone.

In addition to the above, Preston CJ further clarified the appropriate tests for a consideration of a request to vary a development standard in accordance with clause 4.6 in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. This decision clarifies a number of matters including that:

- the five ways to be satisfied about whether to invoke clause 4.6 as outlined in *Wehbe* are not exhaustive (merely the most commonly invoked ways);
- it may be sufficient to establish only one way;
- the written request must be "sufficient" to justify contravening the development standard; and
- it is not necessary for a non-compliant development to have a neutral or beneficial effect

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168-172 Victoria Road & 17-19 Waterloo Road, Rozelle NSW 2039

relative to a compliant development.

It is our opinion that the proposal satisfies one of the five ways established in *Wehbe* that demonstrate that the development standard is unreasonable and unnecessary in this instance, for the reasons set out below.

Wehbe Test 1 – The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The proposal satisfies the objectives of the standard, as detailed below, to the extent relevant to the current proposal. Compliance with the maximum FSR standard under this proposal in the circumstances therefore is considered both unreasonable and unnecessary.

Objective (1)(a) to establish a maximum floor space ratio to enable appropriate development density

The proposed development is compatible with the anticipated future development densities within the surrounding area under IW LEP.

Under clause 4.4A of IW LEP 2022, developments are capable of achieving a maximum FSR of 1.5:1 by incorporating a commercial use along the ground level. Therefore, while the proposed dwellings on 17 and 19 Waterloo Street exceed the mapped FSR of 1:1, had the development included a commercial use along the ground floor, as originally proposed, the maximum FSR would instead be 1.5:1 of which the development would be significantly below. Notwithstanding, in considering the likely bulk and scale within the neighbourhood, it is relevant to consider that properties could be developed up to a maximum FSR of 1.5:1. Noting the proposed development which achieves a maximum FSR of 1.09:1 and 1.14:1 being substantially below 1.5:1, it is not considered out of character with this desired future outcome for the area.

The proposed development has been designed to ensure the bulk and scale of the building does not detract from the streetscape and that it achieves an appropriate density in context to the surrounding sites.

Objective (1)(b) to ensure development density reflects its locality

The Site is located within the 'Rozelle Commercial Distinctive Neighbourhood' and in the sub area of 'Victoria Road'. The development proposes two dwellings with Torrens title subdivision over 17-19 Waterloo Street which is compatible with the existing character along Waterloo Street located away from the primary commercial strip along Victoria Road.

While the original application incorporated a mixed use development in line with the objectives of the DCP, the Architectural Design Panel and Council requested the development be amended to a residential development only, to better integrate with the surrounding established area. This has been achieved within the amended plans with the resulting development density below that of what could be achieved by neighbouring properties under IW LEP for a mixed use development being an FSR of 1.5:1.

Objective (1)(c) to provide an appropriate transition between development of different densities

The dwellings have been designed up to a height of 3 storeys and act as a small transition between the Balmain Leagues Club (**Club**) development (to the southeast) which is

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proposed to extend up to a height of 16 storeys under the current modification and existing lower density development (to the northwest).

The proposed development achieves similar setbacks to other properties along Waterloo Street and integrates balconies within the street facing façade to break up the appearance of the elevation from the street. The bulk and scale of the development will be considerably less than that of the adjoining Club development providing a further transition in the density between developments along Waterloo Street which reduces to the north. This adjoining development is currently seeking a residential FSR of 3.7:1 (variation) with LLEP 2000 permitting a residential FSR of 1.9:1.

Objective (1)(d) to minimise adverse impacts on local amenity

The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area, cross ventilation, solar access and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site providing a high level of amenity.

Objective (1)(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

Consistent with the DCP requirements, the landscape area requirement within the private open space have been achieved. The proposed landscaping on the ground level provides opportunities for a range of planting including deep soil zone areas for future mature trees to support a green tree canopy.

The development responds to the public domain with activated street frontages through the orientation of buildings along the street level. The balconies to the upper floor levels allow passive surveillance to the public domain but also provide an open and welcoming streetscape when viewed from Waterloo Street. The façade design coupled with the material and colour scheme provides a modern and contemporary feel that enhances the streetscape.

Wehbe Test 2 – The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.

This consideration is not relevant in this case.

Wehbe Test 3– The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required.

It is not considered the objective would be defeated or thwarted if compliance was required. As demonstrated above, the objectives of the standard are considered to be achieved by the elements that do not comply with the development standard. Therefore, this test is not considered relevant.

Wehbe Test 4 – The development standard has been virtually abandoned or destroyed by the Council's own decisions.

This is a relevant consideration noting the approved development of the Club, adjacent to the Site, which was subject to an FSR variation request under LLEP 2000. The Club has a maximum residential FSR of 1.9:1 but has been approved with a residential FSR of 2.54:1 (MOD/2022/0447) and a current modification including FSR variation request currently under assessment by the Department of

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Planning, Housing and Infrastructure. This proposed variation seeks to increase the FSR to 3.7:1 for residential accommodation and overall to an FSR of 5.03:1 (Club, commercial and residential). This demonstrates the FSR adjacent to the Site has virtually been abandoned and is a consideration in how to consider this request to achieve a transition between developments in the area.

Wehbe Test 5 – The zoning of the site is unreasonable or inappropriate and consequently so is the development standard.

While this consideration is largely not relevant, we do note that part of the Site is zoned under LLEP 2000 (168-172 Victoria Road) and therefore it does impact the variation sought to the FSR under LLEP 2000. Ultimately it is anticipated that this part of the Site will be amalgamated within IW LEP and therefore should also be considered based on the GFA definition under this EPI which would result in a reduced FSR variation.

Are there sufficient environmental planning grounds to justify contravening the development standard? (Clause 4.6(3)(b))

The environmental planning grounds which support the contravention to the floor space ratio are as follows:

- The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site.
- Environmental objectives underpinning both the land use zoning, building height requirements and the need for consistency with the desired character for the area have not been compromised. This includes ensuring amenity impacts have been considered including privacy and solar access requirements.
- This variation to the maximum FSR development standard is unlike a variation to a height control for example, where there is a specific area of encroachment. In this regard, there is not necessarily one specific area(s) responsible for the FSR variation. However, the overall visual impact of the building mass based on the FSR variation is considered minor with the building design incorporating a number of design elements to reduce the overall mass including setbacks, articulation, etc. The building mass as proposed also provides a suitable transition within the desired future character for the area.
- Surrounding properties are capable of achieving a maximum FSR of 1.5:1 where the development provides for ground level commercial use(s) in accordance with clause 4.4A of IW LEP 2022. Noting the development at 17 and 19 Waterloo Street achieves an FSR of 1.09:1 and 1.14:1, it would not be out of character with other potential future developments in the area being well below what could be achieved with a 1.5:1 FSR.
- The development remains consistent with the floor space ratio objectives under clause 4.4(1). In particular, the density achieved reflects the locality and provides a transition between the Club development and adjoining properties and enables suitable space for vegetative plantings.

The proposal is also considered to be consistent with the following objects of the EP&A Act at s.1.3:

(c) to promote the orderly and economic use and development of land, and

(g) to promote good design and amenity of the built environment.

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In addition to the above, there is an absence of material negative impacts resulting from the proposed variation to the maximum FSR standard.

Consideration of concurrence by Director-General (Clause 4.6(4)(b) & (5))

Concurrence to the proposed variation is not required by the Secretary pursuant to clause 4.6(4)(b), as we understand that Council has necessary delegation as set out in the Assumed Concurrence Notice issued by the Secretary of the Department of Planning and Environment (now DPIE) dated 21 February 2018 (attached to DPE Planning Circular PS 18-003).

Despite this, the proposed variation to the maximum floor space ratio is not considered to be detrimental to any matter of significance for state or regional environmental planning.

In the circumstances of the application, there is no public benefit in maintaining the development standard. To the contrary and consistent with the objectives of clause 4.6, allowing the variation will facilitate a development that achieves a better and more appropriate outcome in the circumstances of the Site and surrounding development. An appropriate degree of flexibility is therefore required in applying the development standard.

In relation to clause 4.6(5)(c), we note that no other matters have been nominated by the Secretary.

168-172 Victoria Road, Rozelle (LLEP 2000)

The following section discusses the grounds for the variation against the relevant provisions under clause 40 of LLEP 2000 which seek to vary the FSR development standard of 1:1.

Under clause 40(3) of LLEP 2000, it states that development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for the development has demonstrated that:

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

These considerations have been further outlined below.

(a) Compliance with the development standard is unreasonable or unnecessary in the circumstances

Clause 40 under LLEP 2000 requires the applicant to provide justification that strict compliance with the maximum FSR requirement is unreasonable or unnecessary in the circumstances of the case.

This variation request applies the questions established in *Wehbe v Pittwater Council (2007) NSWLEC 827* where Preston CJ set out five potential ways for determining whether a development standard could be considered unreasonable or unnecessary. In summary, this variation request to LLEP 2000 demonstrates that the FSR variation sought meets the following key tests

- Wehbe Test (1) - The objectives of the standard are achieved notwithstanding non-compliance with the standard;

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- Wehbe Test (4) - The development standard has been abandoned or destroyed by the consent authorities actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.

Detailed analysis of how the proposed development achieves consistency with the Wehbe tests identified above are provided in more detail below.

Wehbe Test 1 – The objectives of the standard are achieved notwithstanding non-compliance with the standard.

We note that clause 23 under LLEP 2000 which outlines the commercial floor space development standard does not contain specific objectives to be satisfied. Therefore, the proposal has been considered against relevant objectives under Part 5 Employment which relate generally to the employment zoned areas under the Plan, at the request of Council. They are not specific to the FSR development control. As outlined below, some objectives will not be relevant to the proposed development.

We conclude that the proposed development which includes a variation to FSR, does not prevent the employment zone objectives under LLEP 2000 from being achieved. As such, compliance with the maximum FSR standard as part of this proposal in the circumstances is considered both unreasonable and unnecessary.

Objective 20(a) to ensure the sustainable growth of Leichhardt's economy by retaining existing employment uses and fostering a range of new industrial and business uses to meet the needs of the community,

The development provides for a ground floor commercial uses to activate Victoria Road which has other commercial uses including business and retail premises along this corridor. While the ultimate use of this commercial unit is not known, this space is capable of supporting a variety of commercial uses to meet the needs of the local community.

Objective 20(b) to reinforce and enhance the role, function and identity of established business centres by encouraging appropriate development and to ensure that surrounding development does not detract from the function of these centres,

The proposed development includes one ground floor commercial use. The location of the Site is within the 'Rozelle Commercial Distinctive Neighbourhood' and in the sub area of 'Victoria Road'. The proposed development is compatible with the existing character along Victoria Road being the primary commercial strip leading into Rozelle Village to support to support the function of this commercial neighbourhood without detracting from this existing identified retail hierarchy.

Objective 20(c) to integrate residential and business development in business centres,

The development provides for residential units above a ground floor commercial use and achieves this objective.

The proposed development integrates and will be compatible with the bulk and scale of new and future developments in the surrounding area. The proposed four storeys along Victoria Road is significantly lower in building height than the future adjoining Club to the

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north with the proposal acting as a transition between this future 12 storey (proposed 16 storey) development to the east and existing lower density developments to the west.

The proposed design with nil setback is consistent with the existing setbacks along Victoria Road with commercial uses along the ground level. As part of the building design, the fourth floor along Victoria Road has been setback from the front boundary to reduce the overall height of the building when viewed from the street level and when driving along Victoria Road.

The shopfront along Victoria Road is comprised of large floor to ceiling panels of glazing which gives an open feel when on the street. Instead of flat facades on each level, the design is broken up through the use of angled vertical walls to provide interest in the streetscape with private open space balconies also incorporated within the front façade.

The building includes a proposed awning along Victoria Road which will extend out over the public domain area. This provides an all-weather walkway for people accessing the building or for the general public walking along Victoria Road. This awning will be continued from the awning to be constructed as part of the Club and will also act in screening the building while at street level in front of the building.

Objective 20(d) to ensure that buildings to be used for employment are appropriately located and designed to minimise the generation of noise, traffic, car parking, waste, pollution and other adverse impacts, to maintain the amenity of surrounding land uses, and avoid harm to the environment,

The future use of the commercial unit along the ground level is not currently known. The Site is located along a transport corridor providing excellent public transport access with any impacts related to the future use of this unit to be considered as part of a separate application.

Objective 20(e) to ensure the continuation of commercial port uses and railway uses,

While the proposed development is not located on or around commercial port or railway uses, it does not prevent this objective for *the continuation of commercial port uses and railway uses* from being achieved.

Objective 20(f) to allow a range of water-based commercial and recreational facilities in waterfront areas in order to retain the visual diversity and maritime character of the area,

The Site is not located on waterfront land and therefore this objective is not relevant to the proposed development. Notwithstanding, the proposed development does not prevent this objective from being achieved.

Objective 20(g) to ensure non-residential development in residential zones does not detract from the function of the established business centres.

The Site is not zoned residential and therefore this objective is not relevant. Notwithstanding, the proposed development provides for one commercial unit which will not detract from the function of the nearby Rozelle commercial neighbourhood.

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Wehbe Test 4 - The development standard has been virtually abandoned or destroyed by the Council's own decisions.

This is a relevant consideration noting the approved development of the Club, adjacent to the Site, which was subject to an FSR variation request under LLEP 2000.

The Club has a maximum FSR of 1.9:1 but has been approved with a residential FSR of 2.54:1 and a current modification including FSR variation request currently under assessment by the Department of Planning, Housing and Infrastructure. This proposed variation seeks to increase the FSR to 3.7:1 for residential accommodation with an overall FSR of 5.03:1 (Club, commercial and residential uses). This demonstrates the FSR adjacent to the Site has virtually been abandoned and should be a consideration in assessing this request to achieve a transition between the Club development and adjoining developments to the north of the Site.

(b) There are sufficient environmental planning grounds to justify the contravention of the development standard

The environmental planning grounds which support the contravention to the floor space ratio are as follows:

- The EPI applying to the Site, being LLEP 2000, has a more restrictive definition of GFA in comparison to the definition applied under IW LEP which applies to the rest of the LGA (excluding the Club). This results in a larger FSR exceedance that would have otherwise been achieved over the Site and what could be achieved on neighbouring properties zoned under IW LEP as detailed below:
 - Maximum FSR achieved under IW LEP 2022 = 1.89:1
 - Maximum FSR achieved under LLEP 2000 = 2.26:1
- The arrangement of massing on the site meets the relevant planning controls including building height, landscaped area, solar access, cross ventilation and private open space demonstrating that the proposal is consistent with the anticipated built form outcome for the Site.
- The proposed development being four storeys in height along Victoria Road is significantly lower in building height than the future adjoining Club to the north. As previously mentioned, the proposal acts as a transition between this approved 12 storey (proposed 16 storey) development and other lower density developments to the north west.
- Environmental objectives underpinning both the land use zoning, building height requirements and the need for consistency with the desired character for the area have not been compromised. This includes ensuring amenity impacts have been considered including privacy and solar access requirements.
- This variation to the maximum FSR development standard is unlike a variation to a height control for example, where there is a specific area of encroachment. In this regard, there is not necessarily one specific area(s) responsible for the FSR variation. However, the overall visual impact of the building mass based on the FSR variation is considered minor with the building design incorporating a number of design elements to reduce the overall mass in particular including elements of articulation along the street frontage, awnings and balconies recessed into the facade. The building mass as proposed also provides an appropriate transition within the desired future character for the area going between the

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adjoining Club development (currently proposed with an overall FSR of 5.03:1) to adjoining developments having an FSR of up to 1.5:1.

- The development remains consistent with the employment objectives under clause 20 of LLEP 2000. In particular, the development will integrate residential units with a ground floor employment use which will not detract from the nearby employment centres including Rozelle. Further the employment use will assist in meeting the needs of the local community in a well located position along a transport corridor.

The proposal is also considered to be consistent with the following objects of the EP&A Act at s.1.3:

(c) to promote the orderly and economic use and development of land, and

(g) to promote good design and amenity of the built environment.

In addition to the above, there is an absence of material negative impacts resulting from the proposed variation to the maximum FSR standard.

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5 Conclusion

The variations sought to the maximum FSR are considered acceptable for the proposed development at 168-172 Victoria Road and 17-19 Waterloo Street, Rozelle in the context of the surrounding area and the future intended character of the area.

The proposal meets the intent of the FSR standard and in accordance with clause 4.6 of IW LEP 2022 and clause 40 (formerly SEPP 1 Objection) under LLEP 2000, it demonstrates that the development standard is unreasonable and unnecessary in this case and that the variation is justified.

Attachment D - Architectural Excellence and Design Review Panel Meeting Minutes and Recommendations



Architectural Excellence & Design Review Panel Meeting Minutes & Recommendations

Site Address:	168 Victoria Road Rozelle
Proposal:	Integrated development under the Road Acts 1993. Works include demolition of existing structures and construction of a four-storey mixed use building, including ground floor commercial space, residential accommodation above, and basement car parking
Application No.:	DA/2024/0306
Meeting Date:	19 November 2024
Previous Meeting Date:	19 June 2024
Panel Members:	Diane Jones (chair) Jon Johannsen Jean Rice
Apologies:	-
Council staff:	Vishal Lakhia Eric Wong Iain Betts Sinclair Croft
Guests:	-
Declarations of Interest:	No interests were declared
Applicant or applicant's representatives to address the panel:	Lex Yuan, (SRH Architecture) – Architects for the project

Discussion & Recommendations:

1. The Architectural Excellence & Design Review Panel reviewed the architectural drawings and discussed the proposal with the applicant through an online conference. The Panel acknowledges that the proposal is subject to Chapter 4 – State Environmental Planning Policy (SEPP) Housing 2021 - Design of residential apartment development - and the NSW Apartment Design Guide (ADG) applies to the proposal.
2. The Panel thanks the applicant for positively and thoughtfully addressing the previous recommendations, including:

INNER WEST

- a. An overall reconsideration of the built form presentation to Waterloo Street by creating 2 x 3 storey terrace house type dwellings. This is considered an appropriate built form outcome that offers transition between the Leagues Club site and the traditional residential buildings elsewhere along the streetscape.
 - b. Reconfiguration of the basement to allow more direct, individual access to the two suggested terrace houses above through individual stairs and lifts.
 - c. Consideration of internal replanning in some instances, to avoid reliance on screening devices.
 - d. Reconfiguration within the Victoria Road building to introduce natural light and ventilation to common circulation corridors, ensuring consistency with the guidance offered at Objective 4F-1 of the ADG. Additionally, the width of the common circulation corridors within the eastern building has been increased to allow for greater comfort and intuitive movement for the residents.
 - e. Introduction of ceiling fans to all habitable areas, and addition of a rooftop photovoltaic system.
3. The recommendations below are offered by the Panel as part of this review:
- a. The terrace expression addressing Waterloo Street is supported by the Panel. Further articulation of the vertical recessed slot between the terraces is recommended. The Panel recommends that the vertical slot should carry through the built form, including the roof profile.
 - b. In the Panel's view, the car maneuvering would be challenging within the basement, and it should be reviewed in detail by Council's traffic/engineering experts, and possibly consider a turntable.
 - c. The Panel also encourages incorporation of solid or translucent treatment within balconies (facing Waterloo Street), to create a desirable balance between outlook and privacy within the balconies. Additionally, the Panel restates that the applicant should investigate and incorporate suitable design measures for noise attenuation along the Victoria Road frontage seeking to strike an appropriate balance for outlook, solar access and natural ventilation against the noise and pollution aspects of the site.
 - d. Ease of maintenance of the proposed planter boxes should be integrated into the design, and on roof terraces their design must ensure any privacy issues will be addressed for the adjacent property.
4. The Panel restates that revised architectural drawings should confirm that internal and external apartment storage volumes are consistent with the guidance offered within Part 4G of the ADG.
5. While refinement of the pedestrian entry wall from Victoria Road is noted, details regarding artwork should be confirmed to Council's satisfaction. The Panel encourages the applicant to consider the introduction of some textural elements and an additional gate at the front boundary alignment to avoid the accumulation of windswept rubbish and potential CPTED (Crime Prevention through Environmental Design) issues.

Conclusion:

With acceptable resolution of the recommendations above in points 3 to 5 (which should be subject to Council's further review and satisfaction), the Panel is of the view that the proposal is capable of delivering an acceptable level of design quality and excellence.